

Hadden's Handbook  
ON THE  
Local Government Act  
1894



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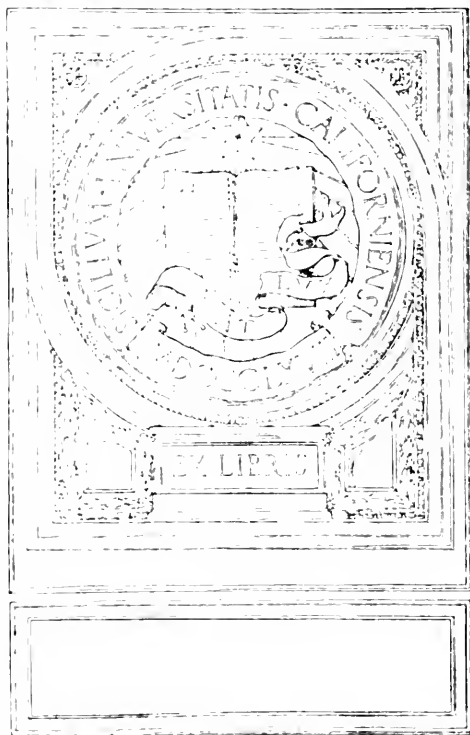
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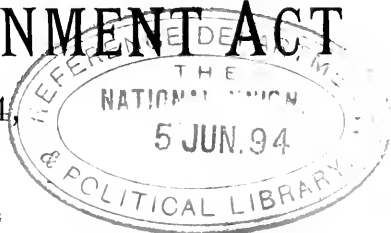


# HADDEN'S HANDBOOK

ON THE

## LOCAL GOVERNMENT ACT

1894,



BEING

*A COMPLETE AND PRACTICAL GUIDE TO THE  
ABOVE ACT*

AND ITS

*INCORPORATED ENACTMENTS.*

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TO WHICH ARE APPENDED

THE FULL TEXT OF THE PRINCIPAL ACT; THE INCORPORATED SECTIONS OF  
THE BALLOT ACT, 1872; THE PUBLIC HEALTH ACT, 1875; THE MUNICIPAL  
CORPORATIONS ACT, 1882; THE MUNICIPAL ELECTIONS (CORRUPT  
AND ILLEGAL PRACTICES) ACT, 1884; THE ALLOTMENTS  
ACTS, 1887 & 1890; AND OTHER STATUTES;  
TOGETHER WITH  
THE CIRCULARS AND ORDERS ISSUED BY THE LOCAL GOVERNMENT BOARD,  
AND OTHER OFFICIAL INFORMATION.

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LONDON:

HADDEN, BEST & CO.,  
WEST HARDING STREET, FETTER LANE, E.C.,  
Local Government Publishers.

1894.

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## P R E F A C E .

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IN the preparation of this handbook on the Local Government Act, 1894, I have had but one object in view, namely—to produce a work which, whether it is consulted hastily or studied at leisure, will provide a ready answer to any of the numerous problems that present themselves in the carrying out of the new Act. The book is primarily designed to meet the convenience of members of county, district, and parish councils, and of boards of guardians, as well as of officers of those authorities; but it will, I hope, be of equal value to every other person interested in local administration. It is intended to form a practical and concise guide to the statute and its numerous incorporated enactments. Many of the provisions of law are exceedingly intricate, and are scattered about in several sections of the statutes. An endeavour has been made in dealing with each particular subject to gather the scattered threads together, so that the reader may find in one place the information which he requires, without having to make troublesome cross references from one part of the work to another. A long experience in the administration of the law relating to every branch of local government, convinces me that this arrangement will be found particularly useful at meetings and on other occasions when any knotty point that demands solution must be settled then and there, and that the plan of this work will contrast most favourably with the ordinary arrangement adopted by other text-book writers.

To take, for an instance, such a simple matter as the chairmanship of the parish meeting, references to at least four sections and a schedule of the Act are required to discover who is empowered to take the chair at an assembly of the parish meeting; and other provisions must be consulted to determine when the chairman of a parish meeting for a parish without a parish council is to be elected, and for how long he holds office. The whole matter is dealt with once for all on pages 15 and 16 of the handbook. In more complicated matters, such as the adoption and execution of the adoptive Acts, to which a separate chapter is devoted, the advantage of discarding

## PREFACE.

the artificial arrangement of the statute, which is determined more by the exigencies of parliamentary debate than by convenience in administering the law, is much more striking.

Difficulties must always arise in the administration of a new statute dealing with so complicated a subject as the local government of this country, and such questions as the right of the parish council or parish meeting to meet in the vestry room or church (*see* pages 81 and 82) or the right of the chairman of an urban district council elected from outside the councillors to give an original vote (*see* page 134), must be confronted when the newly constituted bodies come into existence. My constant aim throughout the work where any difficulties of this character have presented themselves, has been to offer such solution of them as is possible, and I trust that my efforts in this respect will be of service to my readers.

Special care has been taken to secure that the index should be full and complete. Its plan is based upon the principles advocated by the Index Society, and I have every reason to believe that its method of arrangement will materially enhance the value of the handbook.

In conclusion attention may be drawn to the Appendix, which contains the full text of the Local Government Act, 1894, and its incorporated enactments, together with the circulars and orders of the Local Government Board, and all other official information issued up to the date of going to press.

THE AUTHOR.

*May, 1894.*

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THE  
**LOCAL GOVERNMENT ACT,**  
**1894.**

(56 & 57 Vict. c. 73.)

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INTRODUCTION.

*General effect of Local Government Act, 1894, in  
regard to Parochial and other Local Authorities.*

---

THE key-note of modern social legislation is its trust in local authorities. Year after year, for the past few generations, the burden of duties imposed by statute on those authorities has steadily grown, and at the present day their control is felt in almost every department of human life. But, except in the case of municipal boroughs, the organisation of local authorities was not developed equally with their duties so as to keep them thoroughly in touch with the changed circumstances of the times. Whilst comparatively few sessions passed by without some reform or other of our parliamentary system of government being made, the statute book for many years did practically nothing to introduce similar principles into local administration. The chaos of overlapping areas and authorities was added to rather than diminished, and privilege reigned supreme in local elections. The Municipal Reform Act, 1835, organised boroughs upon a popular basis, and although it was followed by numerous other statutes relating to municipal boroughs, which were consolidated and amended by the Municipal Corporations Act, 1882, the essential features of the municipal system of election have now existed for nearly sixty years. It was the successful working, for almost two generations, of that system of popular election and government which recommended its adaptation to the County Councils established by the Local Government Act, 1888. The principles then applied to the government of counties have now been extended and carried out to their logical conclusion by the measure which Mr. Fowler has succeeded in placing on the statute book, and an important step has been taken towards the simplification of areas of local government, and the concentration in the hands of the new Parish and District Councils of the powers and duties sometimes exercised in those areas by several concurrent authorities.

Before dealing in detail with the provisions of the Local Government Act, 1894, a brief reference to the local authorities who are more

or less affected by those provisions may be serviceable. From the ancient Open Vestry in which the inhabitants of rural parish and township have met since time immemorial, down to the modern Rural Sanitary Authority, the Act has dealt impartially with the constitution and duties of existing authorities for the purpose of securing a uniform system of popular local government under the County Councils established by the Local Government Act, 1888. The measure during its passage through Parliament was popularly called the Parish Councils Bill; but as a matter of fact the establishment of Parish Councils, although given the first prominence in the Act, is supplemented by provisions of scarcely less importance relating to Boards of Guardians and District Councils. Numerous duties in connection with the adjustment of areas and boundaries and other matters are also imposed on County Councils for the general purpose of bringing the Act into operation.

#### OPEN VESTRIES.

The meeting of inhabitants in Open Vestry for the business of the parish dates from a very early period, but there would be no advantage for the present purpose in discussing at length any question whether the origin of the Vestry is to be attributed to the meeting of the inhabitants of townships for civil purposes, or to the meeting of parishioners for ecclesiastical purposes. A meeting held primarily for one purpose would no doubt be utilised for the other, and when it is remembered that the distinction between secular and religious business was not so marked in early times, there is no reason for surprise that the Parish Vestry has for centuries past had powers and duties that relate to both civil and ecclesiastical affairs. In either its civil or religious aspect the Vestry is a venerable institution, and the transfer of its civil business to Parish Meetings and Councils under the new Act may in some minds give rise to a pardonable sentiment of regret. The ancient Vestry will not altogether disappear, but will still be summoned for ecclesiastical affairs, such as the election of churchwardens, and, in some parishes, matters connected with the administration or distribution of certain ecclesiastical charities. Every ratepayer who has paid all rates except those due within three months preceding the vestry meeting is entitled to attend the vestry meeting, and to have one vote for every £25 of the rateable value of his qualifying premises, but the maximum number of votes for each ratepayer is six. Under the Local Government Act, 1894, there is no plurality of votes at parish meetings or elections.

#### SELECT AND OTHER VESTRIES.

In some parishes Select Vestries, consisting of a limited number of persons, exercised the powers of the Open Vestry at common law. Custom often determined the constitution of these bodies. Under the Vestries Act, 1831, long known as Hobhouse's Act, which might be

adopted by the parishioners of parishes in a city or town with not less than 800 rated householders, Vestries were chosen by the ratepayers without plurality of votes. Vestries in some other places were constituted under local Acts. The London Vestries established under the Metropolis Management Act, 1855, possess, in addition to the ordinary powers of Vestries, very extensive powers of local government.

In modern times the powers of the Parish Vestry have been restricted chiefly to giving consent to certain administrative acts. Until the passing of the Local Government Act, 1894, the general tendency of legislation for over a century has not favoured parochial authorities; but now that the parish organisation has been remodelled on a truly popular basis the Parish bids fair to regain something of its old prestige as an integral part of our rural system of government. The Vestry in urban parishes remains as it was, and in rural parishes only are most of the civil powers of the Vestry transferred by the Act of 1894 to the Parish Council,<sup>1</sup> or in parishes not having a separate Parish Council to the Parish Meeting subject to any provisions that may be made by a grouping order if the parish is grouped with any other parish or parishes under a common Parish Council. The Act confers additional powers on the new parochial authorities, and gives them more effective control over the parish officers.

#### HIGHWAY AUTHORITIES.

The management of highway business in rural districts has previously to the passing of this Act afforded instances both of administration by single parishes, and by a group of parishes under a common authority. Formerly by the common law each parish maintained its own highways; but modern highway management is to a great extent regulated by statutes beginning with the Highway Act, 1835. Parishes for highway purposes are in many cases not co-terminous with civil parishes, and a civil parish often comprises more than one highway parish. In a parish separately maintaining its own highways the ratepayers in vestry annually elect one or more unpaid Surveyors, or appoint a paid Surveyor to maintain and repair the Highways. Highway Parishes might on application to the justices in quarter sessions be united into a district under a common Highway Board, consisting of "waywardens" elected by the vestries of each parish in the Highway District, and of such of the county justices as resided in the District. An elected Highway Board of five to twenty members might also be formed for parishes with a population of over 5,000 inhabitants. Besides Surveyors of Highway Parishes and Highway Boards for separate or for united highway parishes in rural districts, Rural Sanitary Authorities, in cases where their district was co-terminous with a Highway Board District, might by order of Quarter Sessions or of their successors (the County Council) exercise the powers of a Highway Board. The new Act provides for the ultimate transfer to

<sup>1</sup> See page 47.

Rural District Councils of the powers and duties of these existing highway authorities. It does not affect the administration of highways in Urban Districts, which remains as now in the hands of the Councils of those Districts.

#### BOARDS OF GUARDIANS.

As regards Boards of Guardians, the principal changes are such as not to effect their duties in connection with the administration of the laws relating to the relief of the poor, and these remain untouched by the Act. Although for the most part parishes are grouped together, generally around some conveniently situated market town, into "unions" for poor law purposes under a common Board of Guardians, there are important parishes not in union for which a separate Board of Guardians is constituted. In some instances local acts regulated the election and constitution of the body administering the poor law, but where the general law was in force the same provisions applied to the constitution of the board, whether it was elected for one parish only, or for a union of parishes. Under the Poor Law Acts a Board of Guardians was composed of elected members and *ex-officio* members. The elected members by an order of the Local Government Board had to be rated to the poor rate of some parish in the union (or of the parish if not in union) upon an annual rateable value of not less than £5, whilst the *ex-officio* members were justices of the peace resident in the union or parish, and acting for the division of the county in which the parish or any part of the union was situated. The elected guardians were chosen by the ratepayers and owners of property in the respective parishes, and plural votes were allowed, namely, one vote for every £50 of rateable value, with a maximum number of six votes. A person who owned the premises he occupied was entitled to vote both as owner and occupier, so that if rated sufficiently he might have given as many as twelve votes in all. The election was conducted by means of voting papers, which were left at the residences of the voters and afterwards collected from them. The new Act abolishes *ex-officio* guardians and the plural vote, directs that the elections shall be conducted under the provisions of the Ballot Act, and largely increases the electorate.

#### SANITARY AUTHORITIES (URBAN AND RURAL).

Urban Sanitary Authorities were of three kinds; in Municipal Boroughs, the Town Council; in Districts under Improvement Acts, the Improvement Commissioners; and in Local Government Districts, the Local Board. The Act makes no change so far as the constitution and election of Town Councils are concerned. Improvement Commissioners were elected according to the local act under which the Commission was constituted. The election of a Local Board was conducted in the same manner as that of a Board of Guardians, and the scale of voting for owners and ratepayers was the same. A member of a Local Board had to be a resident in or within seven

miles of the district, and to be seized or possessed of real or personal estate, or both, to the value of £500 in districts of less than 20,000 inhabitants, or of £1,000 in districts of 20,000 or more inhabitants; or to be rated to the poor in the district on an annual value of £15 where the district had less than 20,000, or £30 where it had 20,000 or more inhabitants. Improvement Commissioners and Local Boards become Urban District Councils under the new Act, and cease to be elected by the plural vote. There will now, notwithstanding any provision to the contrary in any local act, be no *ex-officio* members, and the election will take place under the Ballot Act. Some additional powers are conferred by the Act on the Urban District Councils, which for that purpose include Town Councils.

A Rural Sanitary District consisted of that portion of the area of a Poor Law Union that remained after the subtraction of any Urban Sanitary District, or part of an Urban Sanitary District comprised in the Poor Law Union. It was under the jurisdiction of the Rural Sanitary Authority, and that authority was constituted of those members of the Board of Guardians who represented the parishes composing the Rural Sanitary District, or who as *ex-officio* guardians resided in that district. In effect the new Act, subject to the abolition of *ex-officio* guardians, continues this arrangement by making the rural district councillors the representatives of the areas for which they are elected on the Board of Guardians; but the Rural Sanitary Authority become the Rural District Council, and have additional powers as to highways and other matters.

#### OTHER LOCAL AUTHORITIES.

Of the other local authorities, such as Burial Boards, Inspectors under the Lighting and Watching Act, Commissioners of Public Libraries, Baths and Wash-houses, &c., which exist only in parishes and other places where certain statutes have been adopted, it will be enough for the purpose of these introductory remarks to say that the general policy of the Act is to prevent the future setting up in parishes having a Parish Council of such independent authorities, and to provide that the powers of existing authorities be transferred to the Parish Councils in rural parishes, and to District Councils in urban districts. Further explanations will come more appropriately when the provisions of the Acts relating to the particular authorities in question are dealt with.

#### COUNTY COUNCILS, AREAS AND BOUNDARIES.

The constitution of County Councils is not affected by the Act, but their powers of control over other authorities are strengthened and enlarged. For the general purpose of providing that every parish shall be situated within one county district, and that every such district shall be within one county, extensive powers to adjust the areas and boundaries of parishes and districts are conferred on County Councils. Parishes may also be grouped and divided by County Councils for the election of Parish Councils and Boards of Guardians.

## CHAPTER I.

---

### *Local Government Act, 1894—Commencement—Definitions—Sundays and Holidays—Effect on Parishes in more than one Sanitary District.*

#### EXTENT OF ACT—COMMENCEMENT.

Extent of Act

Commencement of Act.

THE Local Government Act, 1894, extends to England and Wales (s. 76) and its provisions, except where the contrary intention appears, have effect immediately on and after the date of its passing, namely, the 5th March, 1894. But the coming into operation of many of the provisions of the Act is fixed with reference to a date called "the appointed day" and the meaning which is given to that expression, is as follows—

Appointed day

Generally "the appointed day" for the several purposes, respectively of—

- (a) Elections and of Parish Meetings in parishes not having a Parish Council, is the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections ; and
- (b) Powers, Duties, and Liabilities of Councils or other Bodies elected under the Act, or other matters not specifically mentioned, is the day on which the members of such councils or other bodies first elected come into office ; and
- (c) Powers, Duties, and Liabilities transferred to a Council of a Borough by the Act, is the First day of November, 1894.

The first elections will be held on the Eighth day of November, 1894, or such later date or dates in the same year as the Local Government Board may fix.<sup>1</sup>

The persons elected will come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the Rules made under the Act<sup>2</sup> in relation to their election (s. 84).

If no different day is fixed by the Local Government Board "the appointed day" for the purpose of elections and of parish meetings in parishes without a Parish Council is, therefore, the 8th of November, 1894, or such prior day as may be necessary for giving notices or doing other acts preliminary to those elections. Subject to no

<sup>1</sup> See page 232.

<sup>2</sup> As to these Rules, see page 221.

different day being so fixed for the holding of the first elections, and subject to no other day for the coming into office of persons first elected under the Act being fixed by rules, "the appointed day" for the purpose of the powers, duties, and liabilities of the bodies elected under the Act, or other matters not specifically mentioned, is Thursday, the 22nd of November, 1894. Appointed day.

No power is given to alter the date fixed for the transfer of powers to a Town Council, namely, 1st November, 1894.

#### DEFINITIONS.

Expressions used in the Local Government Act, 1894, unless the context otherwise requires, have the same meaning as in the Local Government Act, 1888 (Local Government Act, 1894, s. 75 (1)); and this important rule of construction must always be borne in mind in considering the various provisions of the Act of 1894.

The definition of "parish" is excepted from this rule as being inapplicable to the new measure. That word when used in the Act of 1894 means, unless the contrary intention appears, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed (Interpretation Act, 1889, s. 5 (1)). The practical effect is that every civil parish, whether known as a parish, township, or by any other designation, is a parish for the purposes of the Local Government Act, 1894. Parish.

Every parish in a rural sanitary district<sup>1</sup> (*i.e.*, every parish not within a borough, or the district of an improvement commission, or of a local board), is termed a "rural parish" (s. 1 (2)). Where, at "the appointed day," a parish is partly within and partly without a rural sanitary district, the part in the district becomes a separate rural parish. Rural Parish.

Section 100 of the Act of 1888 assigns meanings to be given to certain expressions, "if not inconsistent with the context." Among these expressions and meanings assigned thereto, the following are pertinent to the Act of 1894; namely— Other expressions.

*Administrative County*—This means the area for which a County Council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough;<sup>2</sup> 51 & 52 Vict. c. 41.

*Costs*—This includes charges and expenses;

*Duties*—This includes responsibilities and obligations;

*Existing*—This means existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the day appointed to be for the purpose of such enactment the appointed day;

*Expenses*—This includes costs and charges;

*Highway Area*—This means, as the case may require, an Urban Sanitary District, a Highway District, or a Highway Parish not included within any Highway or Urban Sanitary District;

<sup>1</sup> See Introduction, page 5.

<sup>2</sup> But see the definition of "county" in the Local Government Act, 1894, page 9.

## Definitions.

52 & 53 Vict.  
c. 41.

*Highway Authority*—This means, as respects an Urban Sanitary District, the Urban Sanitary Authority, and as respects a Highway District, the Highway Board, or authority, having the powers of a Highway Board; and as respects a Highway Parish, the Surveyor or Surveyors of Highways or other officers performing similar duties;

*Liabilities*—This includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would, but for this Act, be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose;

*Office*—This includes any place, situation, or employment, and the expression “officer” shall be construed accordingly;

*Powers*—This includes rights, jurisdiction, capacities, privileges, and immunities;

*Powers, Duties, and Liabilities*—This includes all powers, duties, and liabilities conferred or imposed by or arising under any local and personal Act;

*Property*—This includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books and documents; and when used in relation to any board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such board, sanitary authority, or other authority.

Certain provisions of the Interpretation Act, 1889 (52 & 53 Vict. c. 63) are applicable in construing the Local Government Act, 1894. These provisions will have effect “unless the contrary intention appears.”

Words importing the masculine gender include females;

Words in the singular include the plural, and words in the plural include the singular (s. 1 (1));

Expressions referring to writing are to be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form (s. 20);

*Board of Guardians*—This means a Board of Guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes a Board of Guardians or other body of persons performing under any local act the like functions to a Board of Guardians under the Poor Law Amendment Act, 1834 (s. 10);

*Land*—This includes messuages, tenements, and hereditaments, houses, and buildings of any tenure;

*Month*—This means calendar month (s. 3);

*Municipal Borough*—This means, as respects England and Wales, any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the Mayor, Aldermen, and Burgesses of a Borough includes a reference to the Mayor, Aldermen, and Citizens of a City, and any reference to the powers, duties, liabilities or property of the Council of a Borough is to be construed as a reference to the powers, duties, liabilities, or property of the Mayor, Aldermen, and Burgesses of the Borough acting by the Council;

*Parliamentary Borough*—This means any borough, burgh, place, or combination of places returning a member or members to serve in Parliament, and not being either a county or division of a county, or a university, or a combination of universities;

*Borough*—This, when used in relation to local government, means a Municipal Borough as above defined, and when used in relation to parliamentary elections

52 & 53 Vict.  
c. 63.



or the registration of parliamentary electors means a Parliamentary Borough as above defined (s. 15) ;

Definitions.

52 & 53 Vict.  
c. 63.

*Person*—This includes any body of persons, corporate or unincorporate (s. 19) ;

*Poor Law Union*—This means any Parish or Union of Parishes for which there is a separate Board of Guardians (s. 16).

To supplement the explanations of terms used in the Local Government Act, 1894, a reference must be made to the provisions of subsection 2 of section 75 of the Act which are to apply "unless the context otherwise requires." That subsection provides that

56 & 57 Vict.  
c. 73.

Any reference to population means the population according to the census<sup>1</sup> of 1891, and gives definitions to the following expressions:—

*Affairs of the Church*—This includes the distribution of offertories or other collections made in any church ;

*County*—This includes a County Borough ;<sup>2</sup>

*County Council*—This includes the Council of a County Borough ;

*Election*—This includes both the nomination and the poll ;

*Elementary School*—This means an elementary school within the meaning of the Elementary Education Act, 1870 ;

*Local and Personal Act*—This includes a provisional order confirmed by an Act and the Act confirming the order ;

*Prescribed*—This means prescribed by order of the Local Government Board ;

*Rateable Value*—This means the rateable value stated in the valuation list in force, or if there is no such list, in the last poor rate ;

*Vestry*—This, in relation to a parish, means the inhabitants of the parish whether in Vestry assembled or not, and includes any Select Vestry either by statute or at common law.

Other definitions are contained in subsection 2<sup>3</sup> of section 75, but they relate to special subject-matters such as charities. They are referred to in the chapters which deal with those particular matters.

### SUNDAYS AND HOLIDAYS.

When the day on which anything is required by or in pursuance of the Local Government Act, 1894, to be done is Sunday, Christmas Day, or Good Friday, or a Bank Holiday, that thing is to be done on the next following day, not being one of the days mentioned (s. 73).

Sundays, Bank  
Holidays, &c.

The Bank Holidays are Easter Monday, Monday in Whitsun week, the first Monday in August, the 26th of December, if a week-day, and if not, the 27th of December [Bank Holidays Act, 1871 (34 & 35 Vict. c. 17) ; Holidays Extension Act (38 & 39 Vict. c. 13)].

This provision governs proceedings generally under the Act, and should be observed in fixing dates for meetings under the Act.

<sup>1</sup> The census is conclusive on the point, and the population according to the census is to be taken even although it includes the inmates of a hospital, asylum, workhouse, or similar institution.

<sup>2</sup> The term "county" must be distinguished from the expression "administrative county." The former includes a county borough; the latter does not. See page 7.

<sup>3</sup> The subsection is set out in full in the Appendix, page 282.

Sundays, Bank  
Holidays, &c.

Unless in cases of absolute necessity, where very urgent business must be transacted, it would be well to avoid convening a Parish Meeting or a meeting of a Board of Guardians, or of a Parish or District Council, on any of the days referred to in the section.

#### EFFECT OF ACT ON PARISHES IN MORE THAN ONE SANITARY DISTRICT.

Separate parishes  
created out of  
parish in two or  
more sanitary  
districts, unless  
County Council  
otherwise order.

In explaining what constitutes a "rural parish" under the Act reference was made to the case of a parish partly situated in a Rural Sanitary District. These cases require careful consideration, as the effect is to bring about important changes of parochial areas. Where a parish was at the passing of the Act partly within and partly without a Rural Sanitary District, the part within and the part without the district become from "the appointed day" separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same (s. 1 (3)). The part in the Rural Sanitary District thus becomes a separate parish and a rural parish under the Local Government Act.

Every parish which was at the passing of the Act in more than one Urban District is dealt with similarly. The part in each Urban District becomes as from "the appointed day," unless the County Council for special reasons otherwise direct, a separate parish as if so constituted under the Divided Parishes Act (s. 36 (2)). The object of both provisions is to secure that a parish shall as a rule be in one County District only; but the division of a parish situate partly in and partly outside a Rural Sanitary District will, if no alteration in area is made by an order of the County Council, be effected in every case by the Act, whilst the division of a parish in more than one Urban District will not take place if the County Council for special reasons so direct.

Each new parish formed by the division of a parish by the Act is to bear such name as the County Council direct.

Every change of name is to be published in such manner as the County Council direct. Any such change will not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name (s. 55 (2) (4) (5)).

A County Council may deal with a parish in more than one Sanitary District by altering the boundaries of the Sanitary District.<sup>1</sup>

A reference to the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), and the amending Acts, which are the Poor Law Act, 1879 (42 & 43 Vict. c. 54), and the Divided Parishes and Poor Law Amendment Act, 1882 (45 & 46 Vict. c. 58),

<sup>1</sup> See page 197.

is necessary to explain the position of the new parishes created under these provisions of the Local Government Act, 1894.

A parish constituted under the Divided Parishes and Poor Law Amendment Act, 1876, becomes a parish for all lay and civil purposes to which a parish may be liable or entitled, and overseers must be appointed for it (39 & 40 Vict. c. 61, s. 6). The overseers of any parish divided by the Local Government Act, 1894, are, however, to continue in office as if they were overseers of each part constituted a separate parish until the first appointment of overseers next after the appointed day (Local Government Act, 1894, s. 79 (11)). Separate overseers for the new parishes will consequently be first appointed at the usual time in 1895.

New parishes  
39 & 40 Vict.  
c. 61, &c.

The Act does not apply to the ecclesiastical divisions of parishes and the constitution of School Districts is not affected without the sanction of the Education Department; and for the purposes of the election of members of Parliament, of the jury lists, of the action of the justices and of the police and constables, the parishes are to be deemed unaltered until new lists are made and new constables are appointed (39 & 40 Vict. c. 61, s. 4). Nothing in the Acts is to prejudice, vary, or affect any right, interest, or jurisdiction in or over any charitable endowment applicable for the benefit of a divided parish (s. 9), but where a parish is divided by the Local Government Act, 1894, the County Council may by order provide, with the approval of the Charity Commissioners, for the application to different parts of that parish of the provisions of the Local Government Act with respect to the appointment of trustees or beneficiaries of a charity<sup>1</sup> (s. 36 (3)). The order is by section 36 (10) to be deemed to be an order under section 57 of the Local Government Act, 1888,<sup>2</sup> but the order will not require confirmation by the Local Government Board (s. 40). It is not clear what the order could do with respect to any urban part of the parish, as the provisions of section 14 relate to rural parishes only, but apparently it could only apportion the charity property and administration.

The division of a parish by the Act of 1894 does not of itself alter in any way the poor law union, and the new parishes will, until it is otherwise provided, be included in the same union in which the original parish was included (s. 36 (9)). Every valuation list made for a divided parish continues in force until a new valuation list is made (s. 85 (4)).

In many parishes the overseers are accustomed to make one rate only to meet the estimated expenditure for the whole year of their office; but although section 85 (1) of the new Act provides that every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if the Act had

Rates before  
appointed day.

<sup>1</sup> See pages 75, 76.

<sup>2</sup> See page 270.

Rates before  
appointed day.

not passed, and the overseers of the whole undivided parish are to remain in office as overseers of the new parishes until the appointment, in the ordinary course, of overseers for the new parishes is made, it would probably be more convenient in the year 1894 to estimate the rate for the whole parish to meet all the expenses which will be incurred before the appointed day, and to make further rates for the new parishes to cover the period which remains of the overseers' term of office. An adjustment of property and liabilities between the old and new parishes may be made under section 68.<sup>1</sup>

Existing officers  
of divided parish.

Any officer for a parish divided by the Act will hold his office as such officer for each new parish formed by the division, and his salary will be borne by the respective parishes in proportion to their rateable value at the commencement of the local financial year next after the passing of the Act (s. 81 (5)).

The local financial year to which this provision refers begins on the 1st April, 1894 (Local Government Act, 1888, s. 73 (1), which is made applicable by s. 75 (1) of the Local Government Act, 1894). But this date has reference only to the purpose of adjusting the proportion in which the salaries of officers are to be borne by new parishes formed by division of a parish under the Act, and it does not apply to parochial accounts which in 1894 will be made up to the usual day.

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<sup>1</sup> See page 180.

## CHAPTER II.

### *Parish Meetings—Constitution of—Notices of Assembly of—Proceedings—Polls—Parish Meetings for Parts of Parish—Powers of Parish Meeting in Parish with a Parish Council—Powers of, in Parish without a separate Parish Council.*

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#### CONSTITUTION OF PARISH MEETING.

RURAL Parishes under the Local Government Act, 1894, may be for practical purposes divided into two classes, namely, those in which a separate Parish Council will be established, and those in which there will be no separate Parish Council. There will be a Parish Meeting for every rural parish, whether or not the parish has a separate Parish Council, or whether or not it is grouped with another parish or parishes under a common Parish Council (s. 1 (1)); but in the case of a parish without a Parish Council, some of the powers of a Parish Council will be exercised by the Parish Meeting. One of the principal functions of the Parish Meeting in parishes having a Parish Council will be to elect Parish Councillors.<sup>1</sup> Parishes in Urban Sanitary Districts will have neither a Parish Meeting nor a Parish Council.

Parish Meeting for every Rural Parish.

Generally, the constitution of the Parish Meeting and its procedure will be the same whether the parish has or has not a separate Parish Council. In the following observations attention will be drawn to any points of difference as they arise.

Constitution of parish meeting

The Parish Meeting is to consist of the parochial electors and no other persons; and it is sufficient for the present purpose to state that the "parochial electors" will be the voters registered in respect of a parish in the local government and the parliamentary register of electors<sup>2</sup> (s. 2 (1)). In other words, either the county council or the parliamentary franchise will qualify a person to be a parochial elector.

Parochial electors

For the purposes of the Act, married women may be placed on the local government register (s. 43). The register of parochial electors will include parliamentary ownership electors, lodgers, and service voters, as well as the occupation electors. This extended franchise will apply to all elections under the Act, whether for Parish Councils, for Guardians, or for District Councils of county districts other than Municipal Boroughs.

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<sup>1</sup> See page 30.

<sup>2</sup> As to the formation of the register of parochial electors see Chapter XII

Parochial electors.

Any person whose name is not in the register of the parochial electors of the parish is not entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register is entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by any statute (s. 44 (1)).

Conveners of parish meeting.

Where a parish has a Parish Council the chairman<sup>1</sup> of the Parish Council or any two parish councillors may at any time convene a Parish Meeting.

In a parish not having a Parish Council the meeting may be convened by the chairman of the Parish Meeting.<sup>2</sup>

Whether there is a Parish Council or not, any six parochial electors may at any time convene a parish meeting (s. 45 (3)).

First meeting.

The Overseers will convene the first Parish Meeting for the whole or (where Parish Meetings are held for parts) for each part of a rural parish (s. 78 (1)).

Times and place of meetings.

The Parish Meeting are required to assemble at least once in every year, on the 25th of March, or within seven days before or after that day, and the proceedings of every Parish Meeting must not begin before six o'clock in the evening (s. 2 (3), Schedule 1, Part 1, r. 1). Where a parish has no separate Parish Council, the Parish Meeting must assemble not less than twice a year (s. 19 (2)).

Subject to these provisions, the days, times, and places<sup>3</sup> for holding Parish Meetings will be fixed by the Parish Council, or, if there is no Parish Council, by the chairman of the Parish Meeting.

A parish meeting should not, where it can be avoided, be convened to meet on a bank holiday.<sup>4</sup>

Date of First meeting.

The first assembly of the Parish Meeting is to be held at the time fixed by or under the Act for the first election of Parish Councillors, whether there is or is not a Parish Council for the parish (s. 78 (1)). If no later date in 1894 is fixed by the Local Government Board, the first election of Parish Councillors will be held on the 8th of November, 1894 (s. 84 (1)).<sup>5</sup> If any difficulty arises with respect to the holding of the first Parish Meeting, it may be removed by an order of the County Council<sup>6</sup> (s. 80 (1)).

## NOTICES OF MEETING.

Notice of meeting.

Not less than seven clear days before any Parish Meeting, public notice must be given specifying the time and place of the intended meeting and the business to be transacted, and signed by the chairman of the Parish Council or other conveners of the meeting.

<sup>1</sup> The vice-chairman is not empowered to convene the parish meeting, *see* page 31. <sup>2</sup> *See* next page. <sup>3</sup> As to place of meetings for parochial purposes, *see* pages 79 to 83. <sup>4</sup> *See* page 9 as to this. <sup>5</sup> *See* page 233. <sup>6</sup> *See* page 232.

When the business relates to the establishment or dissolution of a Parish Council, or the grouping of a parish, or the adoption of any of the adoptive Acts, not less than fourteen days notice must be given (Schedule 1, Part 1, r. 2 and 3). In reckoning the seven or fourteen days, as the case may be, both the day when the notice is given and the day fixed for the meeting must be excluded.—*Liffin v. Pitcher* (1 Dowl. (N.S.) 767).

Notice of meeting

A public notice of a parish meeting must be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the persons convening the meeting desirable for giving publicity to the notice (s. 51.)

The effect of directing that the notice of a parish meeting is to be given in the manner required for giving notice of vestry meetings is that copies of the notice must be affixed on or near to the doors of all the churches and chapels within the parish [The Vestries Act, 1818 (58 Geo. III. c. 69.) s. 1; The Parish Notices Act, 1837 (7 Will. IV. and 1 Vict., c. 45.) ss. 1, 2]. The notice need only be published on churches and chapels of the Church of England, and need not be affixed to any but the principal door of each.—*Ormerod v. Chadwick* (16 L. J., M. C., 143; 11 J. P., 138). It will not be necessary that the affixing of a notice of a Parish Meeting on the church doors should be done on a Sunday before the commencement of service, as is required by the Acts for notices of vestry meetings. The notice of a Parish Meeting may be posted on the church doors on any day at any time provided that the notice is posted to allow of a lapse of seven or fourteen days, according to the business to be transacted, before the meeting takes place.

In addition to the notice affixed on the church doors, a notice must also be posted in some conspicuous place or places within the parish.

#### PROCEEDINGS OF PARISH MEETING.

The incumbent of the parish was *ex-officio* chairman of every vestry meeting at which he was present, but he will have no *right* to preside at the parish meetings constituted under the Local Government Act.

Chairman of meeting.

If the chairman<sup>1</sup> of the Parish Council is present at a Parish Meeting and is not a candidate for election at the meeting, he will be the chairman of the meeting (s. 45 (2)).

A Parish Meeting in a rural parish not having a separate Parish Council, are required at their annual assembly to choose a chairman for the year (s. 19 (1)), but are not empowered to appoint a vice-chairman.

The first chairman of a Parish Meeting elected under the

<sup>1</sup> This provision does not apply to the vice-chairman, see page 31.

Term of office of First Chairman.	Act is to retire on the second ordinary day of coming into office of councillors, which happens after his election (s. 78 (3)), that is on the 15th of April, 1896 (s. 3 (4)), although his successor must, by s. 19 (1) be chosen at the annual assembly of the Parish Meeting, which is required to take place within seven days of the 25th of March (Schedule 1, Part 1, r. 1). In the year 1897 and subsequent years, the chairman will retire on the day on which his successor is chosen.
Resignation of Chairman.	A chairman of a Parish Meeting may resign his chairmanship by notice in writing to the meeting. Any casual vacancy in the office is to be filled by the Parish Meeting, and the person chosen will retire from office when the vacating chairman would have retired (s. 47 (3)(4)).
Casual vacancy.	
Absence of Chairman.	When the chairman of the Parish Meeting is absent from or unwilling or unable to take the chair at any assembly of the Parish Meeting, the meeting may appoint a person to take the chair, and that person will have, for the purpose of that meeting, the powers and authority of the chairman (Schedule 1, Part 1, r. 10).
Appointment of temporary Chairman.	This last rule is, perhaps, applicable only to a Parish Meeting of a parish without a separate Parish Council; but, if that is so, the same result is brought about by section 2 (4), which provides that, subject to any particular person being the chairman of a Parish Meeting, the meeting may choose their own chairman, and this latter provision is applicable to the Parish Meeting of every rural parish.
Right of Chairman of Parish Council as such to attend parish meeting.	The Act does not expressly confer on the chairman of the Parish Council as such the <i>right</i> to be present at a Parish Meeting. It simply provides that, <i>if he is present</i> , and not a candidate for election, he shall, save as otherwise provided, be the chairman of the Parish Meeting (s. 45 (2)). He can, according to the Act, be present either in the capacity of a parochial elector (s. 44 (1)) or as a candidate for election to the office of parish councillor (Schedule 1, Part 1, r. 9): but in the latter case he is not to take the chair (s. 45 (2)). The chairman of the Parish Council need not necessarily be a parochial elector, for he may be a person who has, during the whole of the twelve months preceding his election as a parish councillor, resided in or within three miles of the parish (s. 3). If his qualification consists in residence only, the terms of section 45 (2) do not seem sufficient to enable him to be chairman of the Parish Meeting in view of the express provisions as to the persons of whom the Parish Meeting is to consist. Not only does section 2 (1) provide that the Parish Meeting shall consist of the parochial electors and <i>no others</i> , but section 44 (1) further emphasises the position of a person who is not on the register of the parochial electors of the parish by enacting that such a person shall <i>not be entitled to attend a meeting or vote as a parochial elector</i> . This question may be of considerable practical importance where divisions run close, for the chairman at a Parish Meeting has a second or casting vote (Schedule 1, Part 1, r. 8).
Casting vote of Chairman.	



No business, other than that for which public notice of the meeting was given, should be transacted at the Parish Meeting, as failure to give proper notice of the business transacted would render the proceedings as to such business void and of no effect. Even where proper notice has been given there is no general right to discuss at such meetings any matters not pertinent to the purposes for which a Parish Meeting is constituted by the Act.

No business to be transacted unless notice given

An informal practice had in many parishes been followed of discussing at the Vestry Meetings subjects of general interest. This had no legal authority, but there was some convenience in the inhabitants being able to express their opinion on subjects connected with the life of the parish. The Local Government Act expressly authorises a Parish Meeting to discuss parish affairs and pass resolutions thereon (Schedule 1, Part 1, r. 4), but the affairs discussed must, it will be observed, be parish affairs only.

Discussion of Parish affairs.

Every question to be decided by a Parish Meeting will, in the first instance, be decided by the majority of those present and voting on the question (Schedule 1, Part 1, r. 5).

Majority to decide.

This rule requires that the majority deciding as to a question shall be the majority of those present who actually vote on the question. It will not necessarily be the majority of the parochial electors present, as some of them may not vote. The rule, although not in terms qualified, is subject to other provisions of the Act for, in some instances,<sup>1</sup> a greater majority than a simple majority of the Parish Meeting will be necessary to give effect to a resolution of the meeting, and, in others, a poll must take place on the question submitted for the opinion of the parochial electors. But, in general, questions will be determined by a simple majority of the electors voting. The votes of the parochial electors must be given in person. There will be no continuance of the privilege which Corporations possessed under section 2 of the Vestries Act, 1818 (58 Geo. III., c. 69), of voting at a Vestry Meeting by means of their clerks or other agents.

No quorum is fixed for a Parish Meeting, but it would not be safe for one parochial elector, who was present alone at a Parish Meeting, to proceed to transact business, as no *meeting* at all could properly be said to be held where less than two electors were present.<sup>2</sup> Parish Councils, Boards of Guardians, and District Councils elected under the Act are in a different position as to this matter, for it is

No quorum.

<sup>1</sup> See pages 23, 89, 92, &c.

<sup>2</sup> In connection with this, the following cases under the Joint Stock Companies Acts may be referred to:—

One shareholder does not constitute a “meeting”—*re Sanitary Carbon Company* (W.N. (77), 223).

The word “meeting” implies the coming together of at least two persons—per Coleridge, C. J., *Sharpe v. Davies* (2 Q. B., 26; 46 L. J. Q. B., 104; 36 L.T., 188). No meeting if only one attends.

expressly provided that these bodies cannot transact business at a meeting unless a certain number or proportion of their members are present.

One man one vote

Each parochial elector may, at any Parish Meeting, or at any poll consequent thereon, give one vote and no more on any question (s. 2 (2)). There will be no plural voting as in the old vestry.

Casting vote of Chairman.

In addition to his right to vote in the first instance as a parochial elector,<sup>1</sup> the chairman will, in case of an equal division of votes, have a second or casting vote. (Schedule 1, Part 1, r. 8).

Decision of Chairman.

The chairman is required to announce his decision as to the result of a show of hands at a Parish Meeting, and that decision is to be final unless a poll is demanded (r. 5).

### POLLS.

When poll may be demanded.

A poll may be demanded at any time before the conclusion of a Parish Meeting (r. 6).

Generally a poll is not to be taken unless either the chairman of the meeting assents, or the poll is demanded by either one-third of the parochial electors present, or by five of such parochial electors, whichever number is least. Where one-third of the number of the parochial electors present is less than five, that one-third may demand a poll; where five is less than one-third of the number of parochial electors present, those five electors may demand a poll. To take examples; if there are thirty parochial electors present, five may demand a poll, as being less in number than one-third of the electors present; if there are nine electors present, three may demand a poll, as being one-third of the number present, although those who form the one-third are less than five electors.

One elector may demand poll in certain cases.

In the case of a resolution respecting certain specified matters, a poll may be demanded by any one parochial elector, namely:—

- (a.) Any application, representation, or complaint to a County Council or District Council;
- (b.) The appointment of a Chairman for the year or of a Committee, or the delegation of any powers or duties to a Committee, or the approval of the acts of a Committee;
- (c.) The appointment of an Overseer, the appointment or revocation of the appointment or dismissal of an Assistant Overseer, or a parish officer;
- (d.) The appointment of Trustees or Beneficiaries of a Charity;
- (e.) The adoption of any of the adoptive Acts;

<sup>1</sup> See the case of *Will v. Longbottom* ([1894] 1 Q.B. 767; 10 T.L.R. 344), in which it was held that the chairman of a meeting, being a duly qualified member of the meeting, could give an original vote, before he gives a second or casting vote.

- (f.) The formation or dissolution of a School Board.
- (g.) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent ;
- (h.) The incurring of any expense or liability ;
- (i.) The place and time for the assembly of a parish meeting ;
- (k.) Any other matter prescribed by the Local Government Board (r. 7.)

One elector may demand poll in certain cases.

Some of these matters relate to business which will devolve on the Parish Meeting of a parish not having a separate Parish Council. In the case of a resolution respecting “ (i.) the place and time for the assembly of the Parish Meeting,” the resolution would be merely a recommendation. The place and time for holding a Parish Meeting, is by section 45 (1) to be fixed by the Parish Council, or if there is no Parish Council, by the chairman of the Parish Meeting ; but no doubt, in fixing a place and time, due weight would be given to any resolution of the Parish Meeting on the subject.

A poll consequent on a Parish Meeting will be taken by ballot (s. 2 (5) ) in accordance with Rules<sup>1</sup> to be framed under the Act by the Local Government Board (s. 48 (8) ).

Ballot.

#### CONDUCT OF BUSINESS.

Standing orders for the regulation of the proceedings and business at Parish Meetings may be made, varied and revoked by the Parish Council (Schedule 1, Part 3, r. 5). Where there is no Parish Council, the Parish Meeting may regulate their own proceedings and business (r. 6).

Standing orders

Minutes of the proceedings must be kept in a book provided for that purpose (r. 1). A minute of proceedings, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, is to be received in evidence without further proof (r. 2). Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified (r. 3).

Minute Book

Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a Parish Meeting is, until the contrary is proved, to be deemed to have been duly so executed (r. 4).

Execution of instruments.

The reasonable expenses of and incidental to the holding of a Parish Meeting or the taking of a poll consequent thereon, will be payable out of the poor rate<sup>2</sup> (ss. 2 (6), 11 (4) ).

Expenses.

Any notice required to be given to or served on a Parish Meeting may be given to or served on the chairman of the Parish Meeting (Schedule 1, Part 1, r. 11).

Serving of notices.

This rule will generally be most applicable to the Parish Meetings of a parish without a separate Parish Council.

<sup>1</sup> As to these rules, see page 221.

<sup>2</sup> See page 69.

## PARISH MEETINGS FOR PARTS OF A RURAL PARISH.

The Act provides for the holding of Parish Meetings for parts of a Rural Parish, under certain circumstances.

Division into  
wards for election  
purposes.

A large parish may be divided into wards for the purpose of the election of parish councillors, and where a parish is divided for that purpose, a Parish Meeting for the election of Parish Councillors will be held for each ward<sup>1</sup> (s. 18).

Adoptive Acts.

A Parish Meeting may be held for a part of a parish for the adoption of any of the adoptive Acts<sup>2</sup> that may be adopted for a part only of a rural parish (s. 7 (4)).

Property.

If it is proved to the satisfaction of the County Council that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the County Council may order that the consent of a Parish Meeting held for that part of the parish shall be required for any such act or class of acts of the Parish Council affecting the said property or rights as is specified in the order (s. 37). The order of the County Council is by section 36 (10) to be deemed to be an order under section 57 of the Local Government Act, 1888<sup>3</sup>; but it does not require confirmation by the Local Government Board (s. 40).

In the case of a Parish Council having any powers and duties which are to be exercised in a part only of the parish, or in relation to a Recreation Ground, Building, or Property held for the benefit of a part of a parish, and the part has a defined boundary, the Parish Council must, if required by a Parish Meeting held for that part, appoint annually to exercise such powers and duties, a committee consisting partly of members of the council and partly of other persons representing the part (s. 56 (2)).

Constitution of  
parish meetings  
for parts of parish

Where a Parish Meeting is required or authorised to be held for a ward or other part of a parish, then—

- (a) the persons entitled to attend and vote at the meeting, or at any poll consequent thereon, will be the parochial electors registered in respect of qualifications in that ward or part; and
- (b) the provisions of the Act with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a Parish Meeting by parochial electors will apply as if the ward or part were the whole parish (s. 49).

Chairman.

The chairman of the Parish Council will not be entitled to be the chairman of the parish meeting held for a part of a parish, unless

<sup>1</sup> See page 199.

<sup>2</sup> See Chapter V.

<sup>3</sup> See page 191.

he is registered as a parochial elector in respect of qualifications in that ward or part.<sup>1</sup>

It must also be borne in mind that a parochial elector will not be allowed to vote for more than one ward (s. 48 (2)). Voting in one ward only.

The provisions relating to Parish Meetings for parts of parishes must be construed together as a whole, and the general tenour of the Act must have due weight. There will be a parish meeting for the whole parish, and although the language of section 49 is wide, there is no ground for supposing that it can reasonably be given any other interpretation than that a parish meeting for a part of a parish will be restricted to the transaction of such or any of the business as is referred to in sections 7, 18 and 37, namely, the adoption of certain adoptive Acts, the election of parish councillors, and such consents as may be specified in an order of the County Council. Parish Meetings for these various purposes need not necessarily be held for the same area. The area for the adoption of the Lighting and Watching Act might not be co-terminous with the area for the election of parish councillors, or with the area interested in certain property or rights; and the respective Parish Meetings for such different purposes would be held from time to time, independently of one another, as might be necessary. Constr uction of these provisions.

#### GENERAL POWERS OF PARISH MEETINGS.

The Parish Meeting will have the exclusive power of adopting the adoptive Acts, and their approval will be substituted for that of the vestry or ratepayers in relation to any expense or rate under an adoptive Act<sup>2</sup> (s. 7). Adoptive Acts.

Any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of of them under any of the Acts relating to the relief of the poor, or under the School Sites Acts, or the Literary and Scientific Institutions Act, 1854, so far as respects the dealing with parish property or the spending of money or raising of a rate, may, in the case of a rural parish, be exercised or given by the Parish Meeting of the parish (s. 52 (1)). Parish property.

The following powers may be exercised by the Parish Meeting under this provision:—

(1.) The Local Government Board may, with the consent of the Guardians or of the Parish Meeting, order workhouses to be built, hired, altered, or enlarged, or land to be purchased, or hired for the purpose of building or enlarging workhouses [Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76) s. 23; Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 108) s. 18]. Workhouses.

<sup>1</sup> See page 16.      <sup>2</sup> See Chapter V, relating to adoptive Acts.

## Emigration.

(2.) The Parish Meeting may direct that subject to the confirmation of the Local Government Board, a sum not exceeding one-half the average yearly rate for the three preceding years shall be raised or borrowed as a fund for defraying the emigration of poor persons settled in the parish (4 & 5 Will. 4, c. 76, s. 62); but a sum not exceeding £10 per head may be expended for emigrating poor persons without the consent of the Parish Meeting [12 & 13 Vict. c. 103, s. 20; Poor Law Amendment Act, 1850 (13 & 14 Vict. c. 101) s. 4].

## Sale, &amp;c., of parish property.

(3.) The consent of the Parish Meeting will be necessary to the

(a) Sale, exchange or letting of workhouses, tenements, buildings or land of any rural parish by a Parish Council,<sup>1</sup> or where there is no Parish Council, by the Board of Guardians of the union in which the parish is situated [Union and Parish Property Act, 1835 (5 & 6 Will. 4, c. 69) s. 3; Parish Property and Parish Debts Act, 1842 (5 & 6 Vict. c. 18, ss. 2, 3], except where the parish is not in a union, but is under a separate Board of Guardians [Poor Law Act, 1889 (52 & 53 Vict. c. 56) s. 8];

## Application of proceeds of sale

(b) Application of the proceeds of the sale of any workhouses or other property of a union or parish in liquidation of the debts, liabilities, or engagements of the union or parish, although legally unenforceable (1 & 2 Vict. c. 25, s. 2);

## Exhausted parish lands.

(c) Sale of land allotted to or otherwise acquired by a parish for the purpose of the supply of materials for the repair of roads and highways, or for some other public or private purpose, when the materials therein are exhausted, or are not suitable or required [Sale of Exhausted Parish Lands Act, 1876 (39 & 40 Vict. c. 62), s. 1];

## Open spaces.

(d) Conveyance of parish property to a District Council for the purpose of being preserved as an open space for the enjoyment of the public [Open Spaces Act, 1887, (50 & 51 Vict. c. 32) s. 7];

## School sites.

(e) Grant or conveyance of any quantity of land, being parochial property, not exceeding in each case one acre, as a site for a school for poor persons and the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of the poor [School Sites Act, 1891 (4 & 5 Vict. c. 38) s. 6], or as a site for a literary and scientific institution [Literary and Scientific Institutions Act, 1854 (17 & 18 Vict. c. 112) s. 6].

Literary and Scientific Institutions.  
Places of worship.

But the consent of the owners and ratepayers will still be necessary to the grant or conveyance of parochial property as a site for a place of

<sup>1</sup> The power of sale and other disposition is transferred from the guardians to the Parish Council, *see* page 55.

worship or residence of a minister, or a burial place under the Places of Worship Sites Acts 1873 and 1882 (36 & 37 Vict. c. 50; 45 & 46 Vict. c. 21).

The transfer of the powers of the owners and ratepayers of a parish to the parish meeting incidentally abolishes plural voting and the voting of owners by proxy.

Effect of this transfer

The effect of subsection 2 of section 52 of the Local Government Act, 1894, is to empower the Parish Meeting to make application to the Education Department for the formation of a School Board [Elementary Education Act, 1870 (33 & 34 Vict. c. 75) s. 12], or for the dissolution of a School Board. In the latter case, the resolution to make the application must be carried by a majority of two-thirds of the Parish Meeting, and if a poll is taken, of the parochial electors. The Education Department before considering the application, must satisfy themselves that no school and no site for a school is in the possession or under the control of the School Board, and that there is a sufficient amount of public school accommodation for the district of the School Board. The application for the dissolution of a School Board must not be made except within six months before the expiration of the period for which the School Board has been elected [Elementary Education Act, 1876 (39 & 40 Vict. c. 79) s. 41].

Formation and dissolution of school board.

#### POWERS OF PARISH MEETING FOR PARISH WITH A PARISH COUNCIL.

In addition to the general powers of a Parish Meeting, the Parish Meeting for a parish with a Parish Council will, besides electing the Parish Council, be able to exercise some control over the acts and expenditure of that Council.

The election of a parish councillor will be at a Parish Meeting or a poll consequent thereon<sup>1</sup>(s. 48 (1)).

Election of parish councillors.

The parish meeting may resolve that the consent of the Parish Council ought not be given for the stopping or diverting of a public right of way, or for a declaration that a highway is unnecessary and not repairable at the public expense<sup>2</sup> (s. 13 (1)).

Discontinuance of highways.

The consent of the Parish Meeting is necessary to a Parish Council supporting or opposing charity schemes, and the accounts of all parochial charities must be annually laid before the Meeting<sup>3</sup> (s. 14).

Charities.

The same consent is required to the sale or exchange of any land or buildings vested in the Parish Council<sup>4</sup> (s. 8 (2)) and to the incurring of any expense or liability by the Parish Council, which

Sale of land.

<sup>1</sup> As to elections, *see* Chapter XII.      <sup>2</sup> *See* page 65.

<sup>3</sup> *See* page 77.

<sup>4</sup> *See* page 56.

Expenses and loans.

will involve a rate exceeding threepence in the pound for any local financial year, or which will involve a loan (s. 11 (1)).

Grouping order.

The Parish Meeting may apply to the County Council for an order to be grouped with some neighbouring parish or parishes under a common Parish Council <sup>1</sup> (s. 38 (4)).

Dissolution of Parish Council

Where the population of the parish according to the last published census for the time being, is less than 200, the Parish Meeting may petition the County Council for the dissolution of the Parish Council <sup>2</sup> (s. 39 (2)).

#### POWERS OF PARISH MEETING FOR PARISH NOT HAVING A SEPARATE PARISH COUNCIL.

The Parish Meeting for a parish without a separate Parish Council may apply to the County Council to establish a Parish Council or for a grouping order. So long as the parish is not under the jurisdiction of a Parish Council, the Parish Meeting have certain powers of a Parish Council.

Establishment of Parish Council.

If the Parish Meeting of a parish with a population of 100, but less than 300, so resolve, the County Council must provide for establishing a Parish Council in the parish.

The consent of a Parish Meeting is necessary to the establishment by the County Council of a Parish Council in a parish of a population less than 100.

On increase of population.

Where the population of a parish not having a separate Parish Council increases so as to justify the election of a separate Parish Council, the Parish Meeting may petition the County Council to order the election of a Parish Council in that parish <sup>3</sup> (s. 39 (1)).

Such a petition may be made whether or not the parish has been grouped with some neighbouring parish or parishes.

Grouping under common Parish Council.

The consent of the respective Parish Meetings is requisite to the grouping of parishes under a common Parish Council (s. 1 (1)).

The Parish Meeting of any parish may apply to the County Council for a grouping order, and if the population is less than 200, for a Parish Council <sup>4</sup> (s. 38 (4)).

A grouping order may provide for the consent of the Parish Meeting to any particular act of the Parish Council <sup>5</sup> (s. 38 (1)).

<sup>1</sup> See page 36.

<sup>2</sup> See page 38.

<sup>3</sup> See Chapter III as to establishment of Parish Councils.

<sup>4</sup> As to the practical effect of this provision, see page 36.

<sup>5</sup> Chapter III deals with grouping orders.



The Parish Meeting of any parish forming part of a group of parishes, may apply to the County Council to make an order dissolving the group<sup>1</sup> (s. 38). Dissolution of group.

A group may be dissolved under this provision without establishing a Parish Council in any of the parishes forming part of the group.

The following powers are conferred by section 19 of the Act on the Parish Meeting of a parish not having a separate Parish Council. These powers are, where the parish is grouped with some neighbouring parish or parishes under a common Parish Council, subject to the provisions of the order constituting the group—

- (1.) All powers, duties, and liabilities of the vestry, except so far as they relate to the affairs of the church or to ecclesiastical charities, or are transferred by the Act to any other authority.<sup>2</sup> Powers of vestry.

Under this provision the Parish Meeting would exercise any power that the Vestry might have had of appointing trustees or beneficiaries of non-ecclesiastical charities. In a parish with a Parish Council the power is transferred to that Council, *see* page 75.

- (2.) Powers of a Parish Council with respect to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary and not repairable at the public expense,<sup>3</sup> and with respect to a complaint to a County Council of a default by a District Council.<sup>4</sup> Stopping of highways.  
Defaults of district council.

- (3.) The power of appointing the overseers, and the duty of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer<sup>5</sup>, and the power given to a Parish Council of appointing trustees of a charity in the place of overseers or churchwardens.<sup>6</sup> Appointment of overseers and assistant overseers.  
Charities.

No such powers of the overseers or of the churchwardens as are transferred to the Parish Council<sup>7</sup> are transferred to the Parish meeting. The Overseers will in a parish without a Parish Council accordingly retain all their existing powers, and the Churchwardens will retain such civil powers and duties as are not powers and duties of overseers. The Parish Meeting will not possess the power conferred on the Parish Council (*see* page 75) of appointing additional trustees in the case of certain non-ecclesiastical charities, except where the management of a charity is vested in a sole trustee; but the annual accounts and any draft-scheme relating to non-ecclesiastical charities, are required to be laid before the Parish Meeting (*see* page 77).

<sup>1</sup> *See* page 36.

<sup>2</sup> Similar powers are conferred on the Parish Council in a parish with a council, *see* page 47.

<sup>3</sup> *See* page 65.

<sup>4</sup> *See* page 66.

<sup>5</sup> *See* the similar powers conferred in Parish Councils, page 39.

<sup>6</sup> *See* page 75.

<sup>7</sup> *See* pages 49 and 50.

Incorporation of  
chairman and  
overseers.

The chairman of the Parish Meeting and the Overseers of the Parish will be a body corporate by the name of the Chairman and Overseers of the Parish. They will have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain; but they must in all respects act in manner directed by the Parish Meeting, and any act of such body corporate must be executed under the hands, or, if an instrument under seal is required, under the hands and seals of the chairman and overseers.<sup>1</sup>

Transfer of  
property.

The legal interest in all property which under the Act would, if there were a Parish Council, be vested on the appointed day in the Parish Council<sup>2</sup> is to vest in the Chairman and Overseers of the Parish, subject to all trusts and liabilities affecting the same, and all persons concerned must make or concur in making such transfers (if any) as are requisite to give effect to the enactment.

The Parish Meeting will become the legal owners of parochial property, but they will not possess the full powers of disposition conferred on the Parish Council. The power to sell or otherwise dispose of the property will remain in the hands of the Guardians, *see* page 55.

Powers of Parish  
Council.

On the application of the Parish Meeting, the County Council may confer on that Meeting any of the powers conferred on a Parish Council by the Act.<sup>3</sup>

Under this important provision, a Parish without a separate Parish Council may exercise by means of the parish meeting any of the powers of a Parish Council, without incurring the burden of the establishment of a council.

Mode of  
evidencing acts  
of Parish  
Meeting.

Any act of the Parish Meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal is required, under the hands and seals of the chairman presiding at the meeting and two other parochial electors present at the meeting.<sup>4</sup>

Committees.

The Parish Meeting may appoint a committee of their own number for any purposes which, in the opinion of the Parish Meeting, would be better regulated and managed by means of a committee. All the acts of the committee must be submitted to the Parish Meeting for their approval.

Limit of rate.

A rate levied for defraying the expenses of the Parish Meeting (when added to expenses under any of the adoptive Acts) must not exceed

<sup>1</sup> The Parish Council are similarly incorporated, *see* page 34.

<sup>2</sup> *See* page 53, as to the provision transferring parish property to the Parish Council where there is a Parish Council.

<sup>3</sup> *See* Chapter IV.

<sup>4</sup> *See* similar provision as to Parish Councils and observations thereon, page 34.

sixpence in the pound in any local financial year (s. 19) ; but where, after the appointed day, the parish continues for a time to maintain its own highways<sup>1</sup> the highway expenses are not to be taken into account for the purpose of the limitation of the rate (s. 82 (2) ).

Limit of rate.

A grouping order<sup>2</sup> might affect the above powers, by conferring them on the common Parish Council established for the group of parishes, or otherwise modify these powers of the Parish Meeting.

Effect of  
Grouping order.

The Parish Meeting will have the right to appear at any inquiry held by the County Council with reference to an order of the Council<sup>3</sup>, for the alteration of the boundary of, or division of the parish or union of, or of part of, the parish with another parish, and will be at liberty to petition the Local Government Board against the confirmation of the order (s. 36 (7) ).

Appearance at  
local inquiry.




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<sup>1</sup> See page 147.

<sup>2</sup> See page 35.

See page 192.

## CHAPTER III.

### *Parish Councils—Establishment of—Constitution of— Meetings and Proceedings—Grouped Parishes— Provisions for Change in Population.*

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#### ESTABLISHMENT OF PARISH COUNCILS.

Population of  
300.

FOR every rural parish, which, according to the census of 1891 has a population of 300 or upwards,<sup>1</sup> there will be a Parish Council; but in a parish of a population under 300 an order of the County Council will be necessary to provide for the establishing of a Parish Council.

Population of  
less than 300.

It will be obligatory upon the County Council to provide for establishing a Parish Council if the Parish Meeting of a parish with a population of 100 or upwards so resolve. In the case of a parish with a population of less than 100, the County Council may, with the consent of the Parish Meeting provide for establishing a Parish Council (s. 1 (1)). It will not be obligatory on the County Council to do so.

To supplement the provisions in section 1 (1), it is provided by section 38 (4) that the Parish Meeting of a parish with a less population than 200 may apply to the County Council for a Parish Council, and the County Council are to forthwith take the application into consideration.

This supplementary provision is now defective in form, for it makes no provision for the case of a parish with a population between 200 and 300. When the House of Lords raised the limit of population prescribed by clause 1 (1) for the purpose of the compulsory establishment of Parish Councils from 200 to 300 no consequential amendments were made in subsequent clauses of the Bill. But in every case where a Parish Meeting of a parish with a population less than 300, but not less than 100, resolve to have a Parish Council, it will be obligatory on the County Council by section 1 (1) to provide for establishing that Council. The supplementary provision in section 38 (4) is not actually required.

Every parish with a population of 300 and upwards will by the operation of the Act have a Parish Council, but parishes with a

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<sup>1</sup> A Return to an order of the House of Commons of the number of poor law parishes and parts of parishes in England and Wales, according to the 1891 census, shows that out of a total number of 13,235 parishes and parts of parishes in rural sanitary districts (that is parishes which are "rural parishes" within the meaning of the Local Government Act, 1894), 6,879 parishes and parts of parishes had a population of 300 and upwards. (*Parliamentary Paper* No. 315, H. C. Session, 1893).

population of less than 300 will at the appointed day have a Parish Meeting only, as no Parish Council can be established in such parishes, or for a group of such parishes, without the initiative or consent of the Parish Meeting, and that Meeting will not come into existence until the appointed day.<sup>1</sup> Any establishment of Parish Councils for such parishes cannot take place before the appointed day.

Population of less than 300.

An order of a County Council establishing a Parish Council does not require confirmation by the Local Government Board (s. 40).

The provisions for the compulsory establishment of a Parish Council, in some parishes determined by the population being sufficiently large of itself, and in other parishes determined by the amount of population and by a resolution of the Parish Meeting, are subject to an exception in one special case where the effect of establishing a Parish Council would be to have both a Parish and Rural District Council exercising jurisdiction in the same area of one parish. To meet this exceptional case, the Act provides that where a Rural Parish is co-extensive with a Rural Sanitary District, then, until the district is united to some other district or districts, and unless the County Council otherwise direct, a separate election of a Parish Council shall not be held for the parish, but the District Council shall, in addition to their own powers, have the powers of, and be deemed to be, the Parish Council (s. 36 (4)).

Exceptional case.

### CONSTITUTION OF PARISH COUNCIL.

A Parish Council will consist of a chairman, and such a number of councillors, not being less than five nor more than fifteen, as may be fixed from time to time by the County Council. The councillors will be elected from among the parochial electors of the parish, or persons who have during the whole of the twelve months preceding the nomination (s. 75 (2)) of parish councillors resided in or within three miles of the parish (s. 3 (1)), and both single and married women will be eligible for election<sup>2</sup> (s. 3 (2)).

Number of members.

Qualification of councillors.

The chairman may be elected either from within or without the council (s. 3 (8)). If he is elected from within he will be both chairman and a councillor. If he is elected from without he will be a member of the council although not a councillor. The office of councillor and chairman are quite compatible and can be held by the same person.

Chairman.

In connection with qualifications for the municipal and parliamentary franchise, the question of what is to be considered "resi-

What constitutes "residence."

<sup>1</sup> See page 6, as to "the appointed day."

<sup>2</sup> As to the disqualifications for the office of parish councillor, see page 217.

- What constitutes "residence."      dence " has been several times before the courts, and it appears from the different cases that in order to constitute residence a person must possess at the least a sleeping apartment, but an uninterrupted abode at his dwelling is not requisite. Absence, no matter how long if there is liberty to return and no abandonment of the intention to do so, does not prevent a constructive legal residence. But if the person has debarred himself of the liberty of returning to such dwelling by letting it for a period, however short, or has abandoned his intention of returning, he cannot any longer be said to have even a legal residence there. In *Powell v. Guest* (18 C.B., N.S. 80) an occupier convicted of assault and imprisoned for five months during the qualifying period, was held not to have resided for the purpose of the parliamentary franchise for the period of his imprisonment. A clergyman who had exchanged duties for a time with another to whom he had given up his residence was, although he retained control over certain locked rooms, held not entitled to be registered—*Ford v. Pye*, (L.R. 9, C.P. 269). A man may have more than one residence—*R. v. Mayor of Exeter* (L. R., 4 Q. B. 110).
- Term of office.      The term of office of parish councillors will be one year (s. 3 (3)), and it will expire on the 15th of April in each year, when the newly elected councillors come into office (s. 3 (4)).
- Retirement of first councillors.      The first councillors elected under the Act in November, 1894, will not retire from office until the 15th day of April, 1896 (s. 78 (3)).
- Election at Parish Meeting.      The parish councillors are elected by the parochial electors (s. 3 (5)) at a Parish Meeting or a poll consequent thereon (s. 48 (1)), and the elections<sup>1</sup> are to be conducted according to Rules framed by the Local Government Board (s. 3 (6)).
- Candidates may attend.      <sup>230</sup> At a Parish Meeting held for the election of parish councillors, opportunity is to be given for putting questions to the candidates present, and receiving explanations from them, and any candidate is to be entitled to attend and speak at the meeting, but, unless he is a parochial elector, not to vote (Schedule 1, Part 1, r. 9).
- Failure to elect.      If at the annual election of parish councillors any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, are, if willing, to continue to hold office. The councillors to continue will be those who were the highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the Parish Meeting, or if not so determined, by the chairman of the Parish Council. A retiring parish councillor is re-eligible.
- Powers of County Council.      In case any Parish Council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the

<sup>1</sup> See Chapter XII as to elections.

County Council may order a new election, and may by order make such provision as seems expedient for authorising any person to act temporarily in the place of the Parish Council and of the chairman thereof (s. 47 (1) (2) (5)).

#### MEETINGS AND PROCEEDINGS.

In every year, on or within seven days after the 15th of April, the Parish Council must hold an annual meeting (s. 3 (7)). Annual meeting.

The first business at that meeting is to elect a chairman and to appoint the overseers<sup>1</sup> (Schedule 1, Part 2, r. 3). The chairman must either be a councillor or a person qualified to be a councillor. Unless he resigns or ceases to be qualified, or becomes disqualified,<sup>2</sup> he is to continue in office until his successor is elected (s. 3 (8)). A retiring chairman will preside at the annual meeting at which his successor is elected. He is himself eligible for re-election at the annual meeting (s. 47 (2)). Chairman.

The Parish Council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman will, in the absence or during the inability of the chairman, have the powers and authority of the chairman (Schedule 1, Part 2, r. 11). Vice-chairman.

The chairman may be elected from either within or without the council, but any choice of a vice-chairman must be made from among the councillors. To what extent the vice-chairman will have the powers and authority of the chairman is not expressly stated, but the provision occurs among rules applicable to Parish Councils, and its operation must be restricted accordingly. The vice-chairman would not, for instance, be entitled to convene or preside at the Parish Meeting.<sup>3</sup>

Every parish councillor must, at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office will be void (r. 1). The chairman of the Parish Council, if elected from outside the council, is not required to make any declaration of acceptance of office. If he is elected from the council he will make the declaration as a parish councillor. A chairman once elected continues in office until he resigns, or ceases to be qualified or becomes disqualified, or until his successor is appointed (s. 3 (8)). His simple non-acceptance of office does not vacate the chairmanship. Acceptance of office.

<sup>1</sup> See page 39 as to appointment of overseers.

<sup>2</sup> See page 217 as to disqualifications for the office of chairman of the Parish Council.

<sup>3</sup> See page 15.

## Resignation.

A parish councillor may, by notice in writing to the chairman of the council, resign his office, and a chairman of a Parish Council may resign his chairmanship by notice in writing to the Council (s. 47 (3)). No fine is required to be paid on resignation of office.

## Casual vacancy.

A casual vacancy among parish councillors or in the office of chairman of the council will be filled by the Parish Council (s. 47 (4)), and the council are required to be forthwith convened, as soon as a casual vacancy occurs in their body, for the purpose of filling the vacancy (Schedule 1, Part 2, r. 2), but the proceedings of a Parish Council are not to be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members (r. 12).

The Parish Council, in filling casual vacancies, must elect persons who are qualified to be parish councillors. A quorum of the council must be formed before they proceed to the business of election.—*Newhaven Local Board v. Newhaven School Board* (30 Ch. D 350)<sup>1</sup>.

## Meetings.

A Parish Council must hold not less than four meetings in each year, of which one is to be the annual meeting. Every meeting is to be open to the public unless the council otherwise direct (r. 13).

## Conveners of meeting.

The chairman may at any time convene a meeting of the Parish Council. If the chairman refuses to convene a meeting of the council after a requisition for that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation, convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting (r. 4).

## First meeting.

The first meeting of the Parish Council under the Act is to be convened by the chairman of the Parish Meeting at which the first parish councillors are nominated, or in his default by the clerk of the guardians (s. 78 (2)). If any difficulty arises with respect to the holding of the first meeting of the Parish Council, it may be removed by an order of the County Council.<sup>2</sup> (s. 80 (1)).

## Date of coming into office.

The Act gives no direction as to when the first meeting should take place, but it should be convened for the day of the coming into office of the first elected councillors, or for a day as soon as practicable after that day. The councillors will come into office on the second Thursday after their election if the Rules of the Local Government Board as to elections fix no other day.<sup>3</sup> (s. 84 (2)).

<sup>1</sup> See page 30, as to a Parish Council becoming unable to act by reason of a want of councillors.

<sup>2</sup> See page 232.      <sup>3</sup> See page 233.



Three clear days notice of any meeting of a Parish Council, specifying the time and place of and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the Parish Council or persons convening the meeting, must be given to every member, and in case of the annual meeting, notice specifying the like particulars must be given to every member of the Parish Council immediately after his election (Schedule 1, Part 2, r. 5).

Notice of Meetings.

This rule does not state who must give the notice of the annual meeting, but the chairman of the Parish Council will continue in office until his successor is elected at that annual meeting (s. 3 (8)). If the chairman fails to give the required notice, two of the newly elected councillors might proceed as authorised by rule 4, of part 2, of the first schedule.<sup>1</sup> The "three clear days" are exclusive of the day on which the notice is given, and the day fixed for the meeting.—*Liffin v. Pitcher* (1 Dowl., N.S. 767).

No business can be transacted at any meeting of a Parish Council unless at least one-third of the full number of members are present, but in no case is the quorum to be less than three<sup>2</sup> (r. 7).

Quorum.

The names of the members present at any meeting of the Parish Council, as well as of those voting on each question on which a division is taken, must be recorded, so as to show whether each vote given was for or against the question (r. 8). This rule precludes voting by ballot.

Record of votes &c.

Every question at a meeting of a Parish Council is to be decided by a majority of votes of the members present and voting on that question (r. 9).

Majority to decide.

The majority required is not a majority of members present, but a majority of those who being present, vote on the question.

In case of an equal division of votes the chairman of the meeting has a second or casting vote (r. 10).

Casting vote.

The casting vote is in addition to any vote which the chairman may give as a member of the council. He has an "original vote," whether elected from within or without the council, as when elected chairman he becomes a member of the council (s. 3 (1)).

Any notice required by law to be given to the chairman or any other member of the Parish Council may be left at or sent by post to the usual place of abode of such chairman or member (Schedule 1, Part 2, r. 6).

Notices generally.

<sup>1</sup> See preceding page.

<sup>2</sup> See page 30, as to a Parish Council becoming unable to act by reason of a want of councillors.

<sup>3</sup> See note on page 18.

Service of  
notices.

Any notice required to be given to a Parish Council may be served on the clerk (r. 15).

## Public Notices.

A public notice given by a Parish Council for the purposes of the Local Government Act, 1894, or otherwise for the execution of their duties, is to be given in the manner required for giving notice of vestry meetings,<sup>1</sup> and by posting the notice in some conspicuous place or places within the parish and in such other manner (if any) as appears to the council desirable for giving publicity to the notice (s. 51).

## Minute Book.

Minutes of the proceedings of every Parish Council must be kept in a book (Schedule 1, Part 3, r. 1), and a minute of proceedings at a meeting of a Parish Council or of a Committee<sup>2</sup> of a Parish Council signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, will be received in evidence without further proof (r. 2).

Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made is to be deemed to have been duly convened and held, and all the members of the meeting to have been duly qualified (r. 3).

## Standing orders.

Subject to the provisions of the Act, a Parish Council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at Parish Meetings for a rural parish having a Parish Council (r. 5).

Incorporation of  
Parish Council.

The Parish Council will be a body corporate by the name of the Parish Council, with the addition of the name of the parish, or if there is any doubt as to the latter name, of such name as the County Council after consultation with the Parish Meeting of the parish direct. Divested of technicalities, this means that the title of a Parish Council will be "The Parish Council for the parish of [Denton]" They will have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain; and any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal is required, under the hands and seals of the chairman presiding at the meeting and two other members of the council (s. 3 (9)). Any instrument purporting to be so executed is until the contrary is proved, to be deemed to have been duly so executed (Schedule 1, Part 3, r. 4).

Execution of  
Instruments.

Although the provision in section 3 (9) with respect to the sealing of instruments is couched in permissive terms, it seems by implication

<sup>1</sup> See the observations on the similar provision as to public notice of a Parish Meeting, page 15.

<sup>2</sup> See pages 136 to 138, as to Committees and Joint Committees of Parish Councils.

to provide that the Parish Council shall not have a common seal. As in law, any mark, or indication of a mark serves for a seal, the execution of an instrument under seal to signify an act of the Parish Council will not be burdened with any formalities.

No common seal.

Every cheque or other order for payment of money by a Parish Council must be signed by two members of the Council (Schedule 1, Part 2, r. 14). The cheque or order will be made on their treasurer.

Cheques.

The Parish Council may appear before any court or in any legal proceeding by their clerk or by any officer or member authorised generally, or in respect of any special proceeding, by resolution of the council, and their clerk or any member or officer will, if so authorised, be at liberty to institute and carry on any proceeding which the Parish Council are authorised to institute and carry on<sup>1</sup> (r. 16).

Appearance in legal proceedings

### GROUPING OF PARISHES UNDER COMMON PARISH COUNCIL.

The County Council may, subject to the right of the Parish Meeting of a parish with a population of 100 and upwards require the County Council to establish a Parish Council in the parish,<sup>2</sup> provide for grouping a parish with some neighbouring parish or

Order of County Council.

<sup>1</sup> The provisions of the Public Authorities Protection Act, 1893 (56 & 57 Vict., c. 61), which applies generally to persons acting in the execution of statutory and other public duties, are applicable to proceedings against members of the Parish Council and their officers. Section 1 of the Act provides that "Where after the commencement of this Act any action, prosecution, or other proceeding is commenced in the United Kingdom against any person for any act done in pursuance, or execution, or intended execution of any Act of Parliament, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act, duty, or authority, the following provisions shall have effect:

Public Authorities Protection Act, 1893.

(a) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect, or default complained of, or, in case of a continuance of injury or damage, within six months next after the ceasing thereof:

(b) Wherever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between solicitor and client:

(c) Where the proceeding is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of the tender or payment; but this provision shall not affect costs on any injunction in the action:

(d) If, in the opinion of the court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding, the court may award to the defendant costs to be taxed as between solicitor and client.

This section shall not affect any proceedings by any department of the Government against any local authority or officer of a local authority."

<sup>2</sup> See page 28.

Grouped  
parishes.

parishes under a common Parish Council. There will be a separate Parish Meeting for every parish so grouped, and no parish can be grouped without the consent of its Parish Meeting (s. 1 (1)).

Application of  
parish meeting  
for grouping  
order.

The Parish Meeting of any parish may apply to the County Council for a grouping order, and any such application is required to be forthwith taken into consideration by the County Council (s. 38 (4)).

In terms, these provisions with respect to grouping apply to any parish irrespective of its population, but they must be read with that provision of section 1 (1) which directs that there shall be a Parish Council for every rural parish which has a population of 300 or upwards.

That provision establishes in parishes with a population of 300 and upwards, a Parish Council which comes into office on the appointed day, and in those parishes the Parish Meeting will, except for the purpose of elections, have no prior existence (s. 84 (4)). A grouping order cannot be made before the appointed day, as the consent of the Parish Meeting is necessary to the grouping of a parish (s. 1 (1)). But although Parish Councils will have been established in every parish with a population of not less than 300, a grouping order may, after the appointed day, be made for any such parish with the consent of its Parish Meeting. A grouping order may make any adaptations of the Act to the group of parishes. (s. 38 (1)).

Group to be in  
one Local  
Government area

Where parishes are grouped the whole area under each Parish Council must, unless the County Council for special reasons otherwise direct, be within the same Administrative County and County District.

Provisions of  
order.

A grouping order must make the necessary provisions for the name of the group, for the Parish Meetings in each of the grouped parishes and for the election of separate representatives of each parish on the Parish Council, and for the application of the provisions of the Act with respect to the appointment of trustees and beneficiaries of a charity,<sup>1</sup> and the custody of documents,<sup>2</sup> so as to preserve the separate rights of each parish.

The order may provide for the consent of the Parish Meeting of a parish to any particular act of the Parish Council, and for any other adaptations of the Act to the group of parishes, or to the Parish Meetings in the group.

Order dissolving  
group.

The County Council may, on the application of the Council for any group of Parishes or of the Parish Meeting for any parish included in a group of parishes, make an order dissolving the group. The

<sup>1</sup> See page 75.      <sup>2</sup> See page 70.

order is to make such provision as appears necessary for the election of Parish Councils of the parishes in the group and for the adjustment of property rights and liabilities as between separate parishes and the group (s. 38).

Order dissolving group.

A grouping order and an order dissolving a group of parishes are by section 36 (10) to be deemed to be orders under section 57 of the Local Government Act, 1888,<sup>1</sup> but they do not require confirmation by the Local Government Board (s. 40).

#### PROVISIONS FOR CHANGE IN POPULATION.

Where the population increases so as to justify the election of a separate Parish Council, the Parish Meeting may petition the County Council, and the County Council, if they think proper, may order the election of a Parish Council in that parish. The order must make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the Parish Council of the group and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate Parish Council (s. 39) 1).

Petition for Parish Council.

The petition under this provision may be made by a Parish Meeting whether the parish does or does not form part of a group.

In the case of a parish which was grouped when its population was under 100, an increase of its population to 100 or upwards might justify the election of a Parish Council. But where the Parish Meeting had consented to the grouping of the parish whilst its population was over 100, some material increase in the population of the parish might be necessary to justify the re-arrangement of the group formed with the consent of its Parish Meeting. An increase of population to 300, the limit under the Act for the compulsory establishment in the first instance of a Parish Council would seem in most cases to justify the election of a separate Parish Council. But in any case the initiative of the Parish Meeting is necessary as the County Council can issue an order only on the petition of that meeting. It must be remembered that the general provisions of section 1 as to the establishment of Parish Councils have reference to populations determined by the Census of 1891, and that in a parish with a population of 300 according to that census there must be a Parish Council, but in a parish with a less population there will be no Parish Council without the consent of the Parish Meeting. Should the population at a subsequent census be found to have increased to 300 or upwards, it will still rest with the Parish Meeting whether they take any steps for the establishment of a Parish Council. If they do not petition

<sup>1</sup> See page 192.

the County Council, a Parish Council cannot be established, no matter to what figure the population increases.

Petition to  
dissolve Parish  
Council.

The County Council, if they think proper, may, upon the petition of the Parish Meeting of a parish, the population of which according to the last published census is less than 200, order the dissolution of the Parish Council, and from and after the date of the order the Act will apply to that parish as to a parish not having a Parish Council. The order is to make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the Parish Council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition (s. 39 (2)). The Parish Council can only be dissolved if the Parish Meeting petition the County Council; but it will be optional with the County Council to dissolve a Parish Council.

Owing to the changes in the Bill consequent on the raising of the limit of population in section 1 from 200 to 300 by the House of Lords not having been made, there is no provision in the Act for dissolving a Parish Council where the population is between 200 and 300.

Order requires  
no confirmation.

An order establishing or dissolving a Parish Council is by section 36 (10) to be deemed to be an order under section 57 of the Local Government Act 1888.<sup>1</sup> The order does not require the confirmation of the Local Government Board (s. 40).

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<sup>1</sup> See page 192.

## CHAPTER IV.

*Powers of Parish Council—Appointment of Overseers and Assistant Overseers—Other Parish Officers—Transfer of Powers of Vestry, Churchwardens, and Overseers—Parish Property—Additional Powers of Parish Council—Borrowing Powers—Expenses—Custody of Parish Books and Documents—Parochial Charities—Place of Meeting for Parochial Purposes.*

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THE Local Government Act, 1894, transfers from the Justices, Vestry, Overseers, and Churchwardens and Overseers to the Parish Council, and in some cases to the Parish Meeting of a parish without a separate Parish Council,<sup>1</sup> certain powers, and confers on the Parish Council many additional powers.

Transfer of powers.

All enactments in any Act, whether general, or local and personal, relating to any powers, duties, or liabilities so transferred, are, subject to the provisions of the Act, and, so far as circumstances admit, to be construed as if any reference therein to Justices or to the Vestry, or to the Overseers, or to the Churchwardens and Overseers, referred to the Parish Council or Parish Meeting as the case requires, and such enactments are to be construed with such modifications as may be necessary for carrying the Act into effect (s. 52 (5)).

Construction of enactments.

### PARISH OFFICERS.

The power and duty of appointing overseers of the poor, and the power of appointing and revoking the appointment of an assistant overseer for every rural parish having a Parish Council, is transferred to and vested in the Parish Council (s. 5 (1)), and for every rural parish not having a separate Parish Council (subject to the provisions of any grouping order) to the Parish Meeting.<sup>1</sup> (s. 19 (5)).

Overseers and assistant overseers.

The Parish Council are required to appoint the overseers at their annual meeting<sup>2</sup> after the chairman has been elected (Sched. 1, Part 2, r. 3.) But a valid appointment of overseers, subject to the power given to the guardians to make the appointment, if no notice has been received by them within three weeks after the 15th of April in each year of the appointment by the Parish Council, might, no doubt be made at a subsequent meeting of the Parish Council, as the enactment

Appointment of overseers.

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<sup>1</sup> See page 25.

<sup>2</sup> See page 31.

Appointment of  
overseers.

which required the justices to appoint the overseers within fourteen days after the 25th of March, was held to be directory only in *Rex v. Sparrow*, 2 Str. 1,123; *Reg. v. Justices of Staffordshire*, 10 L. J. M. C. 166. No direction as to the time for the appointment of the overseers by the Parish Meeting of a parish without a separate Parish Council is given by the Act. It would be convenient for them to make the appointment at their annual assembly<sup>1</sup> and in any case it should be made not later than within three weeks after the 15th day of April (s. 50).

Casual vacancy.

A casual vacancy in the office of overseer is to be filled by the Parish Council as soon as may be (s. 5 (1)).

Where the Parish Meeting have the power of appointing the overseers, they also should fill any casual vacancy as soon as possible.

First appoint-  
ment of  
overseers.

The first ordinary appointment of overseers under the new Act will be made at the annual meetings of the Parish Council or Parish Meeting, as the case may be, in 1895, and until then the overseers appointed by the justices in 1894 will hold office. A casual vacancy in the office of overseer after the Parish Council comes into office, or the Parish Meeting is constituted, should be filled by that Council or Meeting, as the case may be, but until then the filling of any casual vacancy would rest with the justices under the Poor Relief Act, 1743 (17 Geo. II. c. 38), s. 3. If the Parish Council or Parish Meeting determine in the period between the appointed day and the first ordinary appointment of overseers that to replace the churchwardens, who will cease to be overseers, an additional number of overseers should be appointed under section 5 (2), there seems no reason why the appointment of the additional overseers should not be made at once by the Parish Council or Meeting without waiting until a new body of overseers is appointed.

Notice of appoint-  
ment to  
guardians.

Written notice, in the form prescribed by the Local Government Board, of the appointment of overseers, or of the filling of a casual vacancy is to be forthwith given by the appointing Council or Meeting to the Board of Guardians (s. 5 (1)).

Failure to give  
notice.

If notice of the appointment of overseers is not received by the guardians within three weeks after the fifteenth day of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians must make the appointment or fill the vacancy, and any overseer appointed by the guardians will supersede any overseer previously appointed whose appointment has not been notified. Any such notice will be admissible as evidence that the appointment has been duly made (s. 50).

Churchwardens  
cease to be  
overseers.

From the appointed day the churchwardens of every rural parish

<sup>1</sup> See page 14.



will cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens, and references in any Act to the churchwardens and overseers will, as respects any rural parish, except so far as those references relate to the affairs of the Church, be construed as references to the overseers (s. 5 (2)).

Churchwardens  
cease to be  
overseers.

The provision, it will be noticed, does not except references relating to ecclesiastical charities.

No appointment of assistant overseer is to be made by guardians from and after the appointed day (s. 81 (6)), but all existing assistant overseers retain office (s. 81 (4)).

Guardians not to  
appoint assistant  
overseers.

Under the Poor Relief Act, 1601 (43 Eliz. c. 2, s. 1), the churchwardens of every parish, and four, three, or two substantial householders there (as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes), to be nominated yearly by two justices, were to be called Overseers of the Poor. A person who is not a householder of the parish, provided he is assessed to the poor rate of the parish, and is a householder resident within two miles from the church or chapel of the parish, or where there is no church or chapel, resident within one mile from the boundary of the parish, may, with his consent, be appointed overseer [Poor Relief Act, 1819, (59 Geo. III. c. 12), s. 6]. Where two overseers cannot be conveniently appointed from the inhabitant householders in any parish, one overseer only may be appointed; and where there is no such householder liable or fit to be appointed, some inhabitant householder of an adjoining parish willing to be overseer, either with or without an annual salary, to be paid out of the poor rate is to be appointed from year to year as may be found necessary [Poor Law Amendment Act, 1866, (29 & 30 Vict. c. 113), s. 11].

Number of  
overseers and  
qualifications

After the appointed day the number of overseers appointed may be six, two being in place of the churchwardens (Local Government Act, 1894, s. 5 (2)). A person who is churchwarden may be appointed an overseer (29 & 30 Vict. c. 113, s. 12), although a churchwarden is not as such an overseer (Local Government Act, 1894, s. 5 (2)). There will be no nomination of persons fit to serve the office of overseer by the Parish Meeting of a parish with a separate Parish Council. The practice which prevailed in many parishes of nominating at a Vestry Meeting persons from whom the justices might appoint overseers was not based upon statutory authority, and the justices were not bound to appoint overseers from among the persons so nominated.

The interpretation to be given to the expression "substantial householder" must depend upon the circumstances of a parish. In a parish with only three houses and no opulent householders, the appointment of a labourer has been upheld, and there is nothing in the nature of the office to render a woman incompetent.—*Rev v. Stubbs* (2 T. R. 395).

"Substantial  
householder."

Overseers not entitled to remuneration.

Misdemeanour to refuse to serve.

Appeal to Quarter Sessions.

Death of overseer, or removal from parish.

Exempted persons.

An overseer, other than one appointed with a salary under 29 & 30 Vict. c. 113, s. 11, for an adjoining parish is not legally entitled to any remuneration for his personal services. No security can be required from an overseer for the due discharge of his duties. It is a misdemeanour for a person duly appointed overseer to refuse to serve—*Rev v. Jones* (2 Str. 1,146; 2 Sess. Ca. 153). A person aggrieved by being appointed, and also the parishioners aggrieved by an appointment may appeal to quarter sessions (43 Eliz. c. 2, s. 5).—*Rev v. Forrest* (5 T. R. 58). A writ of *certiorari* may be issued to remove the appointment of overseers into the Queen's Bench Division of the High Court of Justice in order to have it quashed.—*Rev v. Standard Hill* (4 M. & S. 378); *Reg. v. Harrison* (16 L.J., M.C., 33).

On the death of an overseer or his removal from the parish, or on his insolvency, another may be appointed in his stead to continue in office until new overseers are appointed. Before removing from the parish, an overseer must deliver over to some other overseer all rates, assessments, books, papers, sums of money, and other things concerning his office. In the case of an overseer dying whilst in office, his personal representative must within 40 days of his death deliver over all things concerning his office to some other overseer, and pay out of the assets left by the overseer all sums received by and due from him by virtue of his office, before any of his other debts are paid and satisfied (17 Geo. II. c. 38, s. 3.)

The following persons are exempt from being appointed overseers, or exonerated from being compelled to serve the office:—Persons in Holy Orders, Roman Catholic Priests (31 Geo. III. c. 32, s. 8); Dissenting Ministers employed solely as teachers or preachers, and having no other employment except that of schoolmaster (1 Will. & Mary c. 18, s. 8; 52 Geo. III. c. 155, s. 9); Income-tax Commissioners (5 & 6 Vict. c. 35, s. 35); Commissioners and Officers of Inland Revenue (53 & 54 Vict. c. 21, s. 8); Customs Officers (39 & 40 Vict. c. 36, s. 9); Officers of the Post Office (7 Will. IV. & 1 Vict. c. 33, s. 12); Registrars of Births and Deaths, and Registrars of Marriages (7 Will. IV. & 1 Vict. c. 22, s. 18); Factory and Workshop Inspectors (41 & 42 Vict. c. 16, s. 67); Medical Practitioners (32 Hen. VIII. c. 40; 6 & 7 Will. & Mary c. 4, s. 2; 18 Geo. II. c. 15, s. 10; 21 & 22 Vict. c. 90, s. 35); Dentists (41 & 42 Vict. c. 33, s. 30); Persons in the Militia (45 & 46 Vict. c. 49, s. 41), Royal Naval Volunteers (16 & 17 Vict. c. 73, s. 8; 22 & 23 Vict. c. 40, s. 7), and Persons in the Army Reserve (45 & 46 Vict. c. 48, s. 7).

No master of a workhouse, relieving officer (13 & 14 Vict. c. 101, s. 8), or assistant overseer (29 & 30 Vict. c. 113, s. 10), nor any person directly or indirectly concerned in any contract for the supply of goods for the workhouse or for the relief of the poor of the union in which the parish is situated (12 & 13 Vict. c. 103, s. 6) is qualified to be an overseer.

Undischarged bankrupts (46 & 47 Vict. c. 52, s. 32) and persons convicted of felony, fraud, or perjury (4 & 5 Will. IV. c. 76, s. 48) are disqualified. Persons convicted on indictment for corrupt practices at parliamentary and other elections, and candidates at such elections who are reported by an election court to have committed the offence of treating or undue influence, or on whose behalf any other corrupt practice has been with their knowledge committed, are ineligible for the office of overseer during a period of seven years from the conviction or date of the report respectively (46 & 47 Vict. c. 51, ss. 4, 5, 6 ; 47 & 48 Vict. c. 70, ss. 2, 3, 36).

Persons  
exempted from  
serving as  
overseers.

Peers and members of parliament, justices, practising barristers and solicitors, officers of the courts of law, and officers of the army and navy, even on half pay, have been held exempt from serving the office of overseer.

Overseers are appointed for a year, and hold office till their successors are appointed. Their principal duties in a rural parish are—

Period of office.  
Duties of  
overseers.

(1) To make the poor rate and to pay out of the proceeds of the rate the sums necessary to meet the precepts of the County Council, Guardians, Parish Council, and other local authorities having jurisdiction over or in the parish.

Poor rate.

(2) To make the valuation list of the rateable hereditaments in the parish under the supervision of the Union Assessment Committee.

Valuation Lists.

(3) To make, under the direction of clerks of the County Councils, the lists of parliamentary and local government electors, and of persons who, residing beyond seven but within fifteen miles of the county, are entitled in respect of the occupation of property in the county, to be elected county councillors. These duties are performed by the overseers in a municipal borough, under the direction of the town clerk, and in a parliamentary borough, not being a municipal borough, under the direction of the person acting as town clerk.

Lists of electors.

(4) To make a list of all men between the ages of 21 and 60, residing in the parish, qualified to serve on juries.

Jury Lists.

(5) To give, in cases of sudden and urgent necessity, temporary relief at the cost of the poor rate, in articles of absolute necessity, and to obey any order of a justice requiring such relief to be given, to give in a case of sudden and urgent necessity, if he deem it desirable, an order provisionally, for admission into the workhouse; to grant, when medical relief is required, in the case of the sudden and dangerous illness of a destitute person an order for the attendance of the medical officer of the union, and to obey any order of a justice requiring such relief

Temporary  
relief.

Duties of  
overseers.

to be given [Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76), s. 54].

Burial of bodies  
cast on shore.

- (6) To provide for the suitable interment of any dead human body cast on shore from the sea (48 Geo. III. c. 75), or from any tidal or navigable waters (49 Vict. c. 20).

Mortuaries.

- (7) In a parish for which there is no Burial Board, to provide by the direction of the Parish Council, or where there is no separate Parish Council, by the direction of the Parish Meeting, mortuaries, and make arrangements for the reception and care of the bodies deposited therein [Burial Act, 1852 (15 & 16 Vict. c. 85), s. 42].

Disorderly  
houses.

- (8) To enter into recognizances before a justice upon information on oath being given by two inhabitants to prosecute at quarter sessions, or the assizes, keepers of brothels, gaming-houses, or other disorderly houses. The costs of the prosecution, and in case of conviction, a reward of ten pounds to each of the two inhabitants, are to be paid by the overseers out of the poor rate (25 Geo. II. c. 36, s. 5; 58 Geo. III. c. 70, s. 7; 48 & 49 Vict. c. 69, s. 13).

Duties where no  
Parish Council.

- (9) In a parish not having a separate Parish Council the overseers retain, subject to the provisions made by any grouping order, certain powers which are transferred to the Parish Council by section 6 (1) (c) of the Local Government Act, 1894. As to these powers *see* page 50.

Appointment of  
assistant  
overseer.

Assistant overseers have hitherto been nominated by the vestry and appointed by the justices, under section 7 of the 59 Geo. III. c. 12, but in some parishes an assistant overseer could not be appointed on account of the guardians of the union having been empowered by orders of the Poor Law Commissioners and their successors to appoint assistant overseers or collectors of poor rates with the powers of assistant overseers. Both the powers of the justices and of the guardians in this matter cease under the Local Government Act, 1894, but existing officers are continued in office, and until the office were vacant the Parish Council could not appoint an assistant overseer to perform the same duties as an existing officer. Under certain circumstances a collector of rates or an assistant overseer appointed by the guardians may be appointed by the Parish Council to perform the duties of an overseer, as provided by the Act of Geo. III. [Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 61]. An appointment of assistant overseer may be made without limitation of the period, or may be made for a limited period. A bond, with or without sureties, may be taken for the faithful discharge of his duties in such penalty as the Parish Council or Meeting, as the case may be, think fit. The bond must be given to the overseers.

The Parish Council should appoint as assistant overseer "a discrete person." (59 Geo. III. c. 12, s. 7). A woman may be appointed.

Appointment of  
assistant  
overseer.

The duties of an assistant overseer are determined and specified and his yearly salary fixed by his appointment. His salary is expressly required to be paid out of the poor rate, and it will not form part of the expenses of the Parish Council or Parish Meeting, as it can under the statute be paid by the overseers without any order for payment by the Parish Council or Parish Meeting, as the case may be. This seems to be so, even where the performance of his duties as clerk of the Parish Council are under section 17 (2) of the Local Government Act, 1894, taken into account in determining his salary. An assistant overseer continues in office until he resigns, or until his appointment is revoked. When the salary of an assistant overseer is altered, his appointment should be revoked and a fresh appointment made at the altered salary. Not only may the Parish Council or Parish Meeting, as the case may be, revoke the appointment of an assistant overseer, but he may also be removed by an order of the Local Government Board for incompetency, neglect of duties, or other misconduct. If so removed he is not competent to fill any paid office connected with the relief of the poor of the parish, except with the consent of the Local Government Board (4 & 5 Will. IV. c. 76, s. 48). A conviction for felony, fraud or perjury, vacates the office (s. 49). Corrupt practices disqualify for the office, as in the case of an overseer.<sup>1</sup>

Salary, &c.

Term of office.

Revocation of  
appointment.

An overseer cannot be appointed an assistant overseer (29 & 30 Vict. c. 113, s. 10), but there is nothing to prevent a churchwarden being after the appointed day appointed an assistant overseer, for a churchwarden, as such, then ceases to be an overseer (Local Government Act, 1894, s. 5 (2)). A master of a workhouse is disqualified, and so is a relieving officer, unless authorised to hold the office by the Local Government Board (13 & 14 Vict. c. 101, s. 6).

It is very usual to appoint an assistant overseer to execute and perform all such duties as appertain to and are incident to the office of an overseer of the poor, but his duties may by the appointment be more restricted. In the absence of express limitation of the duties to be performed, the assistant overseer will be taken as having been appointed to perform all the ordinary duties of an overseer.—*Points v. Attwood* (18 L. J., C. P. 19). The duties of the office may be discharged by a person who does not reside in the parish.

Duties of  
assistant  
overseer.

Any existing assistant overseer in a parish for which a Parish Council is elected, becomes, unless he was appointed by a Board of Guardians, an officer of the Parish Council (s. 81 (3)).

Existing assistant  
overseers.

A vestry clerk appointed under the Vestries Act, 1850, who holds

Vestry clerk.

<sup>1</sup> See page 43.

Existing vestry clerks.

office at the appointed day, becomes the clerk of the Parish Council (s. 81 (2)), but a Parish Council are not to appoint to the office of a vestry clerk (s. 17 (4)).

The Vestries Act, 1850 (13 & 14 Vict. c. 57), could be adopted in a parish with a population exceeding 2,000, but very few rural parishes have vestry clerks. Section 7 of the Act sets out their duties at length. No future appointment to the office can be made in a rural parish.

Appointment of clerk of Parish Council.

Subject to any existing vestry clerk becoming clerk of the Parish Council, the Council may appoint one of their number to act as clerk without remuneration.

If no member of the Council is appointed to act as clerk, the assistant overseer, if any, or such one of the assistant overseers, if more than one, as may be appointed by the Council, will be their clerk. Where there is one assistant overseer only he becomes, if there is no vestry clerk and no member of the Parish Council is appointed clerk, without any appointment by the Parish Council, clerk to that Council. It is obligatory upon the assistant overseer, or, where there is more than one, the assistant overseer appointed by the Parish Council to be their clerk, to perform the duties of clerk: but the performance of those duties is to be taken into account in determining his salary.<sup>1</sup>

If there is no assistant overseer, the Parish Council may appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they may think fit.

When the Council act as a parochial committee by delegation from the District Council they are to have the services of the clerk of the District Council, unless the District Council otherwise direct.<sup>2</sup>

Treasurer.

The Parish Council may appoint one of their own number or some other person to act as treasurer without remuneration, and the treasurer must give such security as may be required by regulations of the County Council (s. 17). The required security will have to be given to the County Council.

Transfer of officers.

Where the powers and duties of any authority other than justices are transferred by the Local Government Act to any Parish Council, the officers of that authority become the officers of the Parish Council (s. 81 (1)).

Officers of Lighting Inspectors, Commissioners of Baths and Wash-houses, &c.

Under this provision, the officers of Lighting Inspectors, Commissioners of Baths and Washhouses, and any other authority executing any of the adoptive Acts<sup>3</sup> and any officers of the vestry become officers

<sup>1</sup> In the case of an existing assistant overseer who becomes clerk of the Parish Council, the re-adjustment of his salary should be effected by a revocation of his appointment, and by his re-appointment at the increased salary. See page 45.

<sup>2</sup> See page 67.

<sup>3</sup> See Chapter V.

of the Parish Council to whom the powers and duties of the authority and vestry are transferred. Parish officers.

Every such officer, vestry clerk, and assistant overseer, will continue to hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties will receive not less salary or remuneration<sup>1</sup> (s. 81 (4)).

#### POWERS TRANSFERRED TO PARISH COUNCIL.

The powers, duties, and liabilities of the Vestry of the parish except— Powers of vestry

(i.) so far as relates to the affairs of the church or to ecclesiastical charities<sup>2</sup>; and

(ii.) any power, duty, or liability transferred by the Act from the vestry to any other authority

are transferred to the Parish Council (s. 6 (1)).

Under this provision, the Parish Council practically takes over all the powers of the Vestry, except those relating to church affairs and ecclesiastical charities, and the powers under the Act to be exercised by the Parish Meeting with respect to the adoptive Acts, and the powers which the Vestry had with respect to highways. But the powers of the Vestry as to highways will be exercised by the Parish Council in parishes now separately maintaining their own highways during such term, if any, as the County Council may, under section 25 (1) postpone the transfer of powers of any highway authority to the Rural District Council. In the year 1894, the election of Surveyors of Highways, and of Parish Boards for the Repairs of the Highways, takes place as usual. Highways.  
  
Election of highway surveyor in 1894.

The Vestry continues to exist for purposes connected with the affairs of the church and ecclesiastical charities. No general explanation of the expression "affairs of the church," is contained in the Act, but it includes the distribution of offertories, and other collections made in any church (s. 75 (2)). It will, without doubt, include the election of churchwardens, who, under the Act, generally cease to be secular officers, and such matters as the levying of a voluntary church rate. Vestry continues for ecclesiastical purposes.

The powers of the Vestry transferred to the Parish Council include all the powers of the inhabitants of the parish, whether in vestry assembled or not, and of any Select Vestry, either by statute or at common law (s. 75 (2)); but there are few, if any, rural parishes where the powers of the Vestry transferred to the Parish Council will include any exceptional powers.

Among the powers transferred from the Vestry to the Parish Council the following may be mentioned:— Powers of vestry

<sup>1</sup> As to compensation to existing officers, see page 184.

<sup>2</sup> See page 74.

Powers transferred from Vestry.

Voluntary payment of poor rate by owners.

The Parish Council will have control over agreements voluntarily made by the owners of rateable hereditaments not exceeding £8 in rateable value with the overseers to become liable for the poor rates for any term not being less than one year, whether the premises are occupied or not, and to receive a commission not exceeding 25 per cent. on the amount of the rates [Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41) s. 3].<sup>1</sup>

Compulsory rating of owners.

The Parish Council may from time to time order that the owners of all such rateable hereditaments *in which dwelling-houses are included* shall be rated instead of the occupiers (s. 4). When the order has been made, the owners of all such rateable hereditaments *must* be rated by the overseers, and an abatement of 15 per cent. be made from the amount of the rate. If an owner gives notice in writing to the overseers that he is willing to be rated, for any term not being less than one year, in respect of *all* such rateable hereditaments of which he is the owner, whether occupied or not, the overseers are to rate the owner accordingly, and allow him a further abatement not exceeding 15 per cent.

Parish constables

Where quarter sessions consider it necessary that one or more parish constables should be appointed, the Parish Council on receipt of a precept from the justices requiring lists of men qualified to serve as parish constables, must within fourteen days of receipt of the precept make out a list of such number as is named in the precept of men residing within their parish who are qualified and liable to serve as constables, and they may annex the names of others, although not qualified, who are willing to serve (5 & 6 Vict. c. 109, ss. 2, 3; 35 & 36 Vict. c. 92, ss. 2, 3).

Every able-bodied man, unless exempt or disqualified, resident within the parish, between the ages of 25 and 55 years, rated to the relief of the poor, or to the county rate on any tenements of the rateable value of £4 or upwards is qualified and liable to serve as constable of the parish (5 & 6 Vict. c. 109, s. 5).

Numerous persons are exempted or disqualified for the office. They are practically the same persons as are exempted or disqualified from serving the office of overseer (*see* 5 & 6 Vict. c. 109, ss. 6, 7; 13 & 14 Vict. c. 101, s. 6).

Parishes may be united by the justices for the appointment of parish constables (5 & 6 Vict. c. 109, s. 4).

A copy of the list made by the Parish Council is to be fixed by the overseers on the first three Sundays in March upon the doors of the principal churches and chapels, stating the time and place for the hearing of objections to the list by the justices (5 & 6 Vict. c. 109, s. 8).

The Parish Council may on receipt of the precept of the justices

<sup>1</sup> Sections 3 and 4 of this Act are reprinted at page 296 of the Appendix.



resolve that one or more paid constables be appointed at a salary fixed by them, and such paid constables may be appointed by the justices in petty sessions (35 & 36 Vict. c. 92, s. 4).

Powers transferred from Vestry.

In a parish where a knacker's yard exists<sup>1</sup> the Parish Council are required to appoint inspectors annually or oftener to inspect such places and keep a book containing particulars of the animals slaughtered. The fee for each entry is 6d., which is to be paid by the person carrying on the business [Knackers Act, 1786 (26 Geo. III., c. 71), s. 5]. This enactment has in many places fallen into desuetude, and has seldom been acted upon by the vestry.

Knackers' yards.

If the County Council postpone the operation of section 25, which transfers to the Rural District Council the powers of existing Highway Authorities, the Parish Council, if the parish separately maintained its own highways, would have to elect the Surveyor, or Board of Surveyors of Highways, and if the parish was in a Highway District would have to elect a Waywarden as the representative of the parish on the Highway Board.

Highways

The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the Burial Act, 1855 (18 & 19 Vict. c. 128), are transferred to the Parish Council. But those obligations are not in the case of any particular parish to be deemed to attach, unless or until the churchwardens subsequently to the passing of the Local Government Act, 1894, give a certificate, as in the Burial Act, 1855, provided, in order to obtain the repayment of such expenses out of the poor rate (s. 6 (1) (b)).

Powers transferred from churchwardens.

The powers and duties which the churchwardens had as overseers cease from the appointed day, and references in any Act to the churchwardens and overseers are to be construed, except so far as they relate to the affairs of the church, as references to the overseers (s. 5 (2)). The provision in section 6 (1) (b) transfers to the Parish Council such secular powers as belong to churchwardens not as overseers, or as included in the expression "churchwardens and overseers." For instance, the obligation to provide for the interment of dead bodies cast on shore<sup>2</sup> is imposed personally on the churchwardens as well as on the overseers by the statute, and it is obligatory upon the churchwardens as such to perform the duty. In a parish without a Parish Council the duty will still pertain to the churchwardens as it is imposed on them as churchwardens and not as

<sup>1</sup> See page 164, as to the licences for these places.

<sup>2</sup> See page 44.

Powers transferred from churchwardens

overseers. The right of the churchwardens to give a certificate of character for the purposes of section 1 of the Knackers Act, 1786 (*see* page 164), is another instance of a power which will pass to the Parish Council.

Closed churchyards.

Section 18 of the Burial Act, 1855, which is the enactment referred to in section 6 (1) (b) of the Local Government Act, 1894, provides that where an order in council is issued for the discontinuance of burials in any churchyard, the churchwardens shall maintain the churchyard in decent order, and also do the necessary repair of the walls and other fences, and the expenses shall be repaid by the overseers upon the certificate of the churchwardens out of the poor rate, unless there is any other fund legally chargeable with such expenses. The effect of the provision in the Local Government Act, 1894, is that unless and until a certificate is given by the churchwardens after the 5th of March, 1894, the maintenance and repair of a closed churchyard will remain in the hands of the churchwardens, but directly any such certificate is issued, the transfer to the Parish Council of the obligations of the churchwardens in the matter will take place. The transfer depends upon the date of the giving of the certificate, and not upon the period when the expenses to which the certificate relates were incurred. If the certificate is given after the passing of the Act, but before the coming into office of the Parish Council, the transfer of the obligations awaits the coming into office of the Council, and the obligations become vested in the Parish Council immediately upon their coming into office.

Powers transferred from overseers, or churchwardens and overseers.

The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

- (i.) appeals or objections by them in respect of the valuation list, or appeals in respect of the poor rate, or county rate, or the basis of the county rate; and
- (ii.) the provision of parish books and of a vestry room or parochial office, parish chest, fire engine, fire escape, or matters relating thereto

are transferred to the Parish Council (s. 6 (1) (c)).

These powers will, subject to any provisions made by a grouping order, be retained by the overseers in a parish without a Parish Council. Any notice required to be given to the Parish Council in connection with the transferred powers may be served on their clerk (Schedule 1, Part 2, r. 15).

Appeals against valuation list.

If the Parish Council of any parish in any union have reason to think that the parish is aggrieved by the valuation list of any parish within the union, they may within 28 days after the deposit of the list for inspection give to the Union Assessment Committee, and to the Parish Council or overseers, as the case may be, of the parish concerning the valuation list of which objection is made, a notice in writing specifying the grounds of objection [Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), s. 18]; but with the

consent of the Parish Council or overseers concerned, the Committee may hear the objection although the notice to the Council or overseers has not been given (s. 19). After all objections have been heard and determined, and the valuation list has been approved by the Union Assessment Committee (ss. 20, 21, 30), a further appeal is open to the Parish Council. If they have reason to think that the parish is aggrieved by being valued too high, or by another parish being valued too low, they may appeal to quarter sessions against the valuation list of the parish which appears to be over valued or under valued. Fourteen days' notice in writing previous to the first day of quarter sessions of the intention to appeal, and the grounds of the appeal must be given to the guardians of the union, and where the appeal is made against the valuation list of any other parish to the Parish Council or overseers, as the case may be, of that other parish (s. 32). The contributions to the common fund of the union and rates are made upon the basis of the approved valuation lists.

Powers transferred from churchwardens and overseers.

Appeals against valuation list.

A person aggrieved by any poor rate may under 17 Geo. II. c. 38, s. 4, and the Quarter Sessions Act, 1849 (12 & 13 Vict. c. 45), s. 1, appeal to the next general or quarter sessions. Fourteen clear days notice in writing stating the grounds of the appeal must be given to the Parish Council or the overseers, as the case may be, but with the consent of the Council or the overseers the appeal may be heard without notice, or although the grounds of appeal were misstated [The Poor Rate Act, 1801 (41 Geo. III. c. 23), s. 5]. No appeal can be made against a poor rate in conformity with the valuation list, unless the appellant has made objection to the Union Assessment Committee, and has failed to obtain such relief as he deems just [The Union Assessment Committee Amendment Act, 1864 (27 & 28 Vict. c. 39), s. 1].

Appeals against poor rate

The preparation and revision of the basis or standard for the county rate is part of the administrative business of the County Council, and is managed by a committee of their members. The basis determines the amount of contributions due from each parish for county purposes. If the Parish Council have reason to think that the parish is aggrieved by such basis or standard they may appeal to quarter sessions. The grounds of appeal by the Parish Council are the omission of parishes, or on account of their parish being rated on a sum beyond the full and fair annual value of the property therein, or on account of some other parish being rated on a sum less than the full and fair annual value of the property therein. Twenty-one days' notice in writing must be given where the appeal is in respect of a parish being over valued to the clerk of the peace, and in other cases to the Parish Council or overseers, as the case may be, of the parish to which the appeal has reference [The County Rates Act, 1852 (15 & 16 Vict. c. 81), s. 17]. An appeal against the county rate made upon the basis or standard may also be made by

Appeals against county rate and basis

Powers transferred from churchwardens and overseers.

the Parish Council to quarter sessions on similar grounds, or on any other just cause of complaint. Fourteen days' notice must be given to the parties against whose rate the appeal is to be made, also to the clerk of the peace and the hundred constable (s. 22).

Parish books.

The churchwardens and overseers were required by section 2 of the Vestries Act, 1818 (58 Geo. III. c. 69), to provide a book in which the minutes of the proceedings and resolutions of every vestry was to be fairly and distinctly entered. Such a book may still be required to be provided by the Parish Council for the purposes of the vestry when it meets for the affairs of the church or ecclesiastical charities.<sup>1</sup> A book will also be necessary for the minutes of the Parish Council and Parish Meeting (Schedule 1, Part 2, r. 1).

Vestry rooms and parochial offices.

Vestry rooms may be provided in parishes where the population exceeds, 2,000, and parochial offices where the population exceeds 4,000. The Local Government Board may, upon written application from the Parish Council of any parish with a population exceeding 2,000, according to the last preceding census, order that the Vestries Act, 1850, shall be applied to and put in force in the parish (13 & 14 Vict. c. 57, s. 1). Under the Act rooms may be hired, or lands or buildings purchased or leased or exchanged, or lands belonging to the parish may be sold, and the proceeds invested in the purchase of other lands or buildings, or suitable buildings may be erected for the purpose of holding any vestry or other meeting for the transaction of any business of, or relating to, the parish.

With the consent of the Local Government Board, the Parish Council of any parish with a population exceeding 4,000, according to the last census, may exercise similar powers under section 1 of the Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), in order to provide or erect a suitable building for the purpose of an office for the transaction of the business of the parish.

No power of compulsory acquisition of land is conferred by these enactments, but the Parish Council have such a power under section 9 of the Local Government Act, 1894.<sup>2</sup> So far as a rural parish with a Parish Council is concerned, these enactments cease to have much practical value, as more extensive powers of providing buildings for public offices and for meetings<sup>3</sup> are conferred on every Parish Council by section 8 (1) of the Local Government Act, 1894.

Parish chest.

The transfer of the powers and duties of the churchwardens and overseers with respect to a parish chest seems to have reference to the provision of proper depositories which the overseers might provide under 24 & 25 Vict. c. 125, s. 2, but it may include the

<sup>1</sup> See page 47.

<sup>2</sup> See page 105.

<sup>3</sup> See page 60.

power and duty to provide the iron chest mentioned in 52 Geo. III. c. 146, s. 5.

Powers transferred from churchwardens and overseers.

The Parish Council may provide proper depositories for all the documents, books, and papers belonging to the parish, for which no provision is made by law, and charge the cost upon the poor rate<sup>1</sup> (24 & 25 Vict. c. 125, s. 2).

Depositories for documents, &c.

A dry well-painted iron chest is to be provided and repaired as occasion may require at the expense of the parish for holding the registers of baptisms, marriages, and burials required to be kept in the custody of the rector or officiating minister<sup>2</sup> [52 Geo. III. c. 146, s. 5; Births and Deaths Registration Act, 1836 (6 & 7 Will. IV. c. 86) s. 33].

Iron chest.

Where there is no other authority competent to provide the same<sup>3</sup>, the Parish Council may resolve to provide a fire engine, ladder, or fire escape for general use in the parish, and provide a place wherein to keep the same and maintain it, as well as any such engine, ladder, or escape acquired by the parish in any other manner for such use, in a fit state of repair. They may also pay the charges of persons necessary for the use thereof, and the cost of suitable implements and accoutrements [Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106) s. 29].

Fire engine.

The legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church, or held for an ecclesiastical charity, is, if there is a Parish Council, to vest in that Council, subject to all trusts and liabilities affecting the same, and all persons concerned must make or concur in making such transfers, if any, as are requisite for giving effect to this enactment (s. 5 (2) (c)).

Parish Property.

No formal transfer is necessary in the case of land or buildings, as this enactment, without any instrument, effectually and conclusively vests such property in the Parish Council: but, in the case of stocks, shares, and other securities, a formal transfer to give effect to the enactment will be required, as the register of such securities is generally conclusive of ownership so far as purchasers without notice are concerned.

Stocks, shares, and securities.

Section 17 of the Poor Relief Act, 1819 (59 Geo. III. c. 12), empowered the churchwardens and overseers of a parish to hold on behalf of the parish all buildings, lands, and hereditaments belonging

<sup>1</sup> See page 70 as to the place of deposit of parochial documents.

<sup>2</sup> See page 71.

<sup>3</sup> That is in a parish where the Lighting and Watching Act, 1833, is not in force (see page 89), or where the Rural District Council are not empowered by an order of the Local Government Board to provide fire engines under section 171 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).

Powers transferred from churchwardens and overseers.

Parish property.

to the parish, and incorporated them for that purpose. Under other enactments, also, property may have been vested in the same body, as, for instance, an allotment for a recreation ground or other public purpose made under the Inclosure Acts, 1845 to 1882. In whatever manner the property may have been vested in the churchwardens and overseers, the effect of the provision in the Local Government Act is simply to transfer the bare legal estate to the Parish Council. The beneficial interest will remain unaffected and be enjoyed as before the transfer. Property connected with the affairs of the church or held for an ecclesiastical charity will not be transferred, nor will property vested in the overseers, or in the churchwardens and overseers jointly, with another person or persons as, for instance, the rector, vicar, or curate.

Vesting order under Charitable Trusts Acts.

Where the legal estate is vested in the churchwardens and overseers by virtue of the Poor Relief Act, 1819, nothing in the Charitable Trusts Acts, 1853 to 1891, is to be deemed to require the consent of the churchwardens and overseers in their capacity as a corporation under that Act, or of the Parish Council as their successors, to a vesting order under those Acts dealing with the legal estate: but this provision is not to affect any rights, powers, or duties of the churchwardens and overseers or the Parish Council, in cases where they have active powers of management (Local Government Act, 1894, s. 52 (4)). This provision does not apply to the chairman and overseers of a parish without a separate Parish Council. *see page 26.*

In some instances, as stated just now, the churchwardens and overseers hold, under section 17 of the Poor Relief Act, 1819, the legal estate in property, the management and proceeds of which are entrusted to others for charitable purposes. Over the disposal of such property, the Charity Commissioners have jurisdiction, but the consent of the corporation in which land is vested is, by section 48 of the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), necessary to a vesting order of the Charity Commissioners. Such consent ceases to be requisite for the vesting of the legal estate where property is held by the Parish Council and their predecessors under the Act of 1819. Any active powers of management possessed by them will remain unaffected.

Property held for public purposes

Property vested in the churchwardens and overseers for civil purposes becomes in every case vested in the Parish Council, if there is a Council, and the Council holds the property subject to the same trusts and liabilities, if any, as attached to it when held by the parish officers. Although the property is vested in the parish officers, other persons may, under the trusts, have the powers of management. Property held for purposes connected with a parish is also often held by trustees and not by the parish officers. In both cases the Local Government Act, 1894, gives the trustees the option to divest

themselves of their responsibilities by a transfer to the Parish Council.

Where trustees hold any property for the purposes of a public recreation ground, or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, for the benefit of the inhabitants of a rural parish, or any of them, or for any public purpose connected with a rural parish, except for an ecclesiastical charity, they may, with the approval of the Charity Commissioners, transfer the property to the Parish Council of the parish, or to persons appointed by that Council, and the Parish Council, if they accept the transfer, or their appointees, will hold the property on the trusts and subject to the conditions on which it was held by the trustees (s. 14 (1)).

Parish property held for public recreation ground, public meetings, or allotments.

Any persons administering or managing the property are included as trustees for the purposes of this provision (s. 75 (2)).

Trustees may hold allotments under the Inclosure Act, 1845 (8 & 9 Vict. c. 118), section 73, to be appropriated as a place of exercise and recreation, or for other public purposes. Under Local Inclosure Acts, allotment wardens, trustees, or other functionaries often hold allotment lands for the benefit of the poor, or for field gardens or recreation grounds, or other public purposes. Any such trustees, or persons in the position of such trustees, whether holding the property under Inclosure Acts or otherwise, may, with the approval of the Charity Commissioners, act upon the permissive power conferred upon them by section 14 (1) to transfer the property to the Parish Council or their appointees.

The overseers, whenever they are required by the district auditor or the Local Government Board, must accurately and truly make out a list of the lands and tenements, and an inventory of stock, money, goods, and effects belonging to the parish, or given or applicable in aid of the poor rates.<sup>1</sup> The list is technically known as a "terrier."

Terrier of parish property

The powers exercisable with the approval of the Local Government Board by the Board of Guardians for the poor law union comprising the parish, in respect of the sale, exchange, or letting of any parish property, are to be exercised by the Parish Council. (s. 6 (1) (d)).

Sale, &c., of parish property,

Although the legal estate in parish property was vested in the overseers or in the churchwardens and overseers, the power of disposition belonged to the guardians of the poor law union, comprising the rural parish, under section 3 of the Union and Parish Property Act, 1835 (5 & 6 Will. IV. c. 69), which enabled the guardians, with the consent of a majority of the owners and ratepayers, and with the approbation

<sup>1</sup> A list of charity properties is also required to be made where the Vestries Act, 1831, is in force. See page 78.

Powers transferred from the guardians.

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and subject to the rules, orders, and regulations of the Local Government Board, to sell, exchange, or let any workhouses, tenements, buildings, lands, effects, or other property belonging to any parish in the union. The legal estate is transferred to the Parish Council by section 5 (2) (c) of the Local Government Act, 1894, and that Council are also to have the powers of the guardians, subject to the consent of the Parish Meeting,<sup>1</sup> with respect to the disposition of parish property.

The power of disposition transferred from the guardians is, however, practically not required, having regard to the following general provision of the new Act, by which a Parish Council may let, or, with the consent of the Parish Meeting, sell or exchange any land or buildings vested in the Council, but the power of letting for more than a year, and the power of sale or exchange cannot be exercised in the case of property which has been acquired at the expense of any rate, or is at the passing of the Act (namely 5th March, 1894) applied in aid of any rate, or would but for want of income be so applied, without the consent of the Local Government Board, or in any other case without such consent or approval as is required under the Charitable Trusts Acts, 1853 to 1891, for the sale of charity estates. No such consent or approval will, however, be required for the letting for allotments of land vested in the Parish Council (s. 8 (2)).

Where the property has not been acquired at the expense of any rate, or is not applied in aid of any rate, the Parish Council cannot make, except with the express authority of Parliament, or a court of competent jurisdiction, or according to a scheme legally established, or with the approval of the Charity Commissioners, any sale, mortgage, or charge of the charity estate, or any lease in reversion for more than three years of any existing term, or for any term of life, or in consideration wholly or in part of any fine or for any term exceeding twenty-one years [Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124, s. 29)]. An exchange may be authorised by the Charity Commissioners, under section 24 of the Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137). But the Parish Council may, under the Local Government Act, 1894, let for allotments without any of these formalities.

Management of parish property.

The powers, duties, and liabilities of the overseers or of the churchwardens and overseers with respect to the holding or management of parish property, not being property relating to affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments, whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them, is transferred to the Parish Council (s. 6 (1) (c)).

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<sup>1</sup> See page 22.



The Parish Council may execute any works (including works of maintenance or improvement) in relation to any such parish property (s. 8 (1) (j) ).

Powers transferred from churchwardens and overseers.

Section 15 of the Inclosure Act, 1845 (8 & 9 Vict. c. 118) prohibited the inclosure of a village green, and provided that on an inclosure of lands in a parish the village green might be allotted to the churchwardens and overseers for the purposes of exercise or recreation.

Village greens.

Allotments may be made under the Act for recreation grounds and field gardens for the labouring poor (s. 34), and for the benefit of classes of persons entitled to common rights over the allotment (s. 87). Allotments for these purposes might be made and awarded under the Act to the churchwardens and overseers, and it was generally their duty to maintain and repair the fences and keep the surface level and drained (ss. 73, 87). The expenses of maintaining allotments for exercise and recreation were to be paid out of the rents for herbage, or out of the poor rate, or otherwise (s. 73). The Commons Act, 1876 (39 & 40 Vict. c. 56), made important changes as to allotments under the Act of 1845. It provided that future allotments made for the purpose of a recreation ground should always be vested in the churchwardens and overseers (s. 25), and gave directions as to the application of surplus rents of recreation grounds and field gardens (s. 27). The Parish Council will now exercise these and other powers of the churchwardens and overseers under the Inclosure Acts, 1845 to 1882.

Allotments.

The Parish Council can take proceedings for preventing nuisances on village greens and recreation grounds under the Inclosure Act, 1857 (20 & 21 Vict. c. 31, s. 12). Further powers of control are given by section 8 (1) (d) of the Local Government Act, 1894.<sup>1</sup> In the case of a recreation ground, building or other property held for the benefit of a part of the parish with a defined boundary, the Parish Council must, if required, by a Parish Meeting held for that part,<sup>2</sup> appoint annually to exercise their powers and duties in respect of such property, a committee consisting partly of parish councillors and partly of other persons representing the part.

Nuisances on village greens, &c.

The powers and duties of any wardens, committee, or managers appointed or elected under any statute for allotments, are to be exercised and performed by the Parish Council, and no appointment or election of any such wardens, committee, or managers will be necessary. For the purposes of section 16 of the Small Holdings Act, 1892 (55 & 56 Vict. c. 31), two members of the Parish Council will be substituted for allotment managers or persons appointed as allotment managers (Local Government Act, 1894, s. 6 (4) ).

Powers transferred from allotment wardens, &c.

<sup>1</sup> See page 61.      <sup>2</sup> See page 137.

Powers transferred from allotment wardens, &c.

Allotments.

An allotment made upon any inclosure under the Inclosure Acts, 1845 to 1882, for the labouring poor, was placed under the management of "The Allotment Wardens" of the parish, who consisted of the incumbent, one of the churchwardens yearly named, and two of the ratepayers, yearly chosen and appointed by the justices in the same manner as overseers (8 & 9 Vict. c. 118, s. 108). Committees for allotments made under local Acts of Inclosure and for poor allotments were required to be appointed annually by the allotment trustees and the vestry respectively, to exercise the powers of the appointing authority [Poor Allotments Management Act, 1873 (36 & 37 Vict. c. 19) ss. 3, 4]. A committee appointed by a vestry had to determine the applications of industrious cottagers of good character who desired to rent, under the provisions of 2 Will. IV. c. 42, fuel allotments made for the benefit of the poor of the parish. The trustees of the allotments were entitled to vote on the applications made to the committee. Under the provision in section 6 (4) of the Local Government Act, 1894, the Parish Council exercise the powers and duties of the allotment wardens under the Act of 1845, and of any committee under the Act of 1873, and of any similar body under any other statute, whether public or local. They will also take the place of any managers appointed by a sanitary authority or a Rural District Council under section 6 (3), or elected by the Parliamentary electors under section 9 of the Allotments Act, 1887, to manage allotments provided under that Act or the Allotments Act, 1890. They can, under section 6 (3) of the Local Government Act, 1894, require allotments so provided to be entrusted to their management. Two of their number will become members of any committee to which a County Council providing small holdings may delegate their powers (except rating and borrowing powers) under the Small Holdings Act, 1892, with respect to the adaptation of land for any holdings, and the sale, letting, and management of any holdings. The committee for that purpose consists of—

Small holdings.

The county councillor representing the electoral division in which the holdings are situate; and

Two other members of the County Council; and

Two members of the Council of the Parish in which the holdings are situated (55 & 56 Vict. c. 31, s. 16).

Representation as to allotments.

A Parish Council have the same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on parliamentary electors by the Allotments Act, 1887 (50 & 51 Vict. c. 48), or the Allotments Act, 1890 (53 & 54 Vict. c. 65), but without prejudice to the powers of those electors (s. 6 (3)). They have also the like power of petitioning the County Council as is given to six parliamentary electors by section 2 of the Act of 1890 (s. 9 (17)).

The Parish Council may represent to the Rural District Council that the circumstances of the parish are such that it is the duty of the

Rural District Council to take proceedings for acquiring land for allotments (50 & 51 Vict. c. 48, s. 2), and, if the District Council fail to acquire land adequate and suitable in quality and position to provide a sufficient number of allotments, the Parish Council may petition the County Council to put into force the Act of 1887 for the purpose of providing a sufficient number of allotments for the parish (53 & 54 Vict. c. 65, s. 2). Where the Rural District Council have provided allotments, the Parish Council may petition the District Council for the election of allotment managers (50 & 51 Vict. c. 48, s. 9), and the effect of the petition will be to give to the Parish Council the powers of allotment managers under the Act (Local Government Act, 1894 s. 6 (4)), namely such powers as may be prescribed by the Council providing the allotments (50 & 51 Vict. c. 48, s. 6 (4)). Where the County Council have provided allotments there will be no need for the Parish Council to petition the County Council for the election of allotment managers, as the allotments themselves are to be conveyed to the Parish Council,<sup>1</sup> who will manage them (Local Government Act, 1894, s. 9 (14)).

Representation  
as to allotments.

A Parish Council have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890 (53 & 54 Vict., c. 70), but without prejudice to the powers of such householders (s. 6 (2)).

Representation  
as to unhealthy  
dwellings.

If the Parish Council complain in writing to the medical officer of health of the Rural District that any dwelling-house in or near a "street" (which includes any "court, alley, street, square, or row of houses,") is in a condition so dangerous or injurious to health as to be unfit for human habitation, it becomes the duty of the medical officer to forthwith inspect the house, and should he be of opinion that the house is in the condition complained of, to represent the case to the Rural District Council (53 & 54 Vict. c. 70, s. 31). When any dwelling-house appears to the Rural District Council to be in the state represented, they are required to forthwith take proceedings against the owner or occupier under the Act for closing the dwelling-house (s. 32). Notice has to be given by the District Council to the owner or occupier to execute the works necessary to put the premises in proper condition, and if he fails to do so it becomes the duty of the Council to apply to the justices for a closing order.

A building, though not in itself unfit for human habitation, may be so situate that, by reason of its proximity to, or contact with other buildings, it causes one of the following effects, that is to say—

Obstructive  
buildings.

- (a) It stops ventilation, or otherwise makes, or conduces to make such other building to be in a condition unfit for human habitation, or dangerous or injurious to health; or

<sup>1</sup> See page 112.

Representation  
as to unhealthy  
dwellings or  
obstructive  
buildings.

- (b) It prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings.

The Housing of the Working Classes Act, 1890, terms a building of this character "an obstructive building," and the effect of the Local Government Act will be to enable the Parish Council to represent to the Rural District Council the particulars concerning any obstructive building, and to state that in their opinion it is expedient that it should be pulled down. Upon receiving a representation the District Council must cause a report to be made to them respecting the circumstances of the building and the cost of pulling it down, and acquiring the land. An obstructive building may be ordered to be pulled down, subject to compensation to the owner (s. 38).

Report to  
County Council.

Where a complaint or representation is made respecting a dwelling-house unfit for human habitation, or respecting an obstructive building, the Rural District Council are required to report the proceedings taken by them to the County Council, and if the County Council are of opinion that the District Council ought to institute proceedings for a closing order, or to make an order for pulling down, they may give not less than one month's notice to the District Council to proceed accordingly, and on the failure of the District Council to do so, the County Council may pass a resolution which thereupon vests in them the powers of the District Council in the matter, and the expenses of the County Council in exercising those powers become a debt due from the District Council (s. 45).

#### ADDITIONAL POWERS OF PARISH COUNCIL.

The following additional powers are conferred by section 8 (1) of the Local Government Act, 1894, on a Parish Council, namely, power—

Public offices.

- (a) to provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business, or with the powers or duties of the Parish Council or Parish Meeting; and

Recreation  
grounds.

- (b) to provide or acquire land for such buildings and for a recreation ground and for public walks.

These powers of providing buildings for public offices and meetings will, in practice, probably supersede the powers to provide a vestry room or parochial office<sup>1</sup> transferred by section 6 (1) (c) from the overseers to the Parish Council, as the exercise of the latter powers are subject to greater restrictions. But the consent of a Parish Meeting will generally be necessary before the buildings to which section 8 refers can be provided, as such provision will usually involve a loan.<sup>2</sup>

Commons.

- (c) to apply to the Board of Agriculture under section 9 of the Commons Act, 1876 (39 & 40 Vict. c. 56).

This will enable the Parish Council to apply for information and directions as

<sup>1</sup> See page 52.      <sup>2</sup> See page 67.

to the mode in which applications for the regulation and inclosure of commons under the Inclosure Acts, 1845 to 1882, are to be made to the Board of Agriculture with explanations respecting the law on the subject. The Board of Agriculture issue such information and directions.<sup>1</sup> No express power to intervene in any way is conferred on the Parish Council in respect of the inclosure or regulation of commons, but a notice of any application to the Board of Agriculture in relation to a common is required to be served upon the Council of every Parish<sup>2</sup> in which any part of the common to which the application relates is situate (Local Government Act, 1894, s. 8 (4) )

(d) to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under section 164 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), or section 44 of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59), in relation to recreation grounds or public walks, and sections 183 to 186 of the Public Health Act, 1875, are to apply accordingly 'as if the Parish Council were a local authority within the meaning of those sections.

Management of  
village greens, &c

The Parish Council will be enabled to lay out, plant, improve and maintain any such recreation ground, village green, open space, or public walk, and to support or contribute to its support. They will also have power to make byelaws for its regulation, and to provide by such byelaws for the removal from the same by any officer of the council or constable of any person infringing any byelaw (38 & 39 Vict. c. 55, s. 164). A recreation ground, village green, open space, or public walk must not be closed on any Sunday or public holiday, but, subject to this, the Parish Council may on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion) close the same or any part thereof to the public, and may grant the use of the same, either gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose, or may use the same for any such show or purpose; and the admission on the days when the same is so closed to the public, may be either with or without payment, as directed by the Parish Council, or, with the consent of the Council, by the society or persons to whom the use may be granted. The Parish Council may either themselves provide and let for hire, or may license any person to let for hire, any pleasure boats on any lake or piece of water in any such recreation ground, village green, or open space, and may make byelaws for regulating the numbering and naming of such boats, the number of persons to be carried therein, the boathouses and mooring places for the same, and for fixing rates of hire and the qualifications of boatmen, and for

Improvement.

Byelaws.

<sup>1</sup> These are reprinted at page 413 of the Appendix.

<sup>2</sup> See the similar provision with respect to a district council, page 157.

Recreation  
grounds, &c.

securing their good and orderly conduct while in charge of any boat (53 & 54 Vict. c. 59, s. 44).

Byelaws

The byelaws which the Parish Council may make, will be subject to the provisions of sections 183 to 186 of the Public Health Act, 1875. Such reasonable penalties may be imposed by the byelaws on offenders against the same as the Parish Council think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence, a further penalty not exceeding forty shillings for each day after written notice of the offence from the Parish Council; but the byelaws must be so framed as to allow of the recovery of any sum less than the full amount of the penalty (38 & 39 Vict. c. 55, s. 183). Confirmation by the Local Government Board is necessary before the byelaws take effect; and before they can be confirmed, two preliminary conditions must be satisfied: notice of intention to apply for confirmation must be given in one or more of the local newspapers, circulating within the parish to which the byelaws relate, one month, at least, before the making of the application; and, for one month at least, before the application, a copy of the proposed byelaws must be kept at the office of the Parish Council, and must be open during office hours to the inspection of the ratepayers without fee or reward. A ratepayer is entitled upon application, to be furnished with a copy of the proposed byelaws, or any part thereof, on payment of sixpence for every hundred words contained in the copy (s. 184).

All byelaws must be printed after confirmation and hung up in the office of the Parish Council, and a copy is to be delivered to any ratepayer of the parish to which the byelaws relate, on his application for the same (s. 185). A copy of any byelaws, signed and certified by the clerk of the Parish Council to be a true copy, and to have been duly confirmed, will be evidence, until the contrary is proved, in all legal proceedings, of the due making, confirmation, and existence of the byelaws without further or other proof (s. 186). If there is no clerk to the Parish Council, it would be necessary to produce the original confirmed byelaws in any legal proceedings.

Model byelaws

Model byelaws with respect to pleasure grounds have been issued by the Local Government Board for the use of Sanitary Authorities desirous of making byelaws on that subject under the Public Health Act, 1875, and any Parish Council wishing to make byelaws for their recreation ground or other open space should communicate with that Board. In a circular letter to Sanitary Authorities, dated 25th July, 1877, the Local Government Board informed Sanitary Authorities that they had caused their model clauses to be printed on foolscap paper with an ample margin for annotation. Every Parish Council desirous of making byelaws will, on application to the Board, be supplied with the necessary draft forms. If, in any case, the model clauses require alteration to suit the special circumstances of a particular district, the

proposed variations should be clearly shown in manuscript in the margin of the draft. The Board will then be readily able to direct their attention to these variations, and to state their views upon any points which may arise. When the final revision of the draft has been completed, and the Parish Council have been informed of the decision of the Board with regard to the allowance or disallowance of the several clauses, a fair copy embodying the contents of the draft as revised, and carefully compared with the original to ensure the correction of possible errors, should be prepared for deposit at the office of the Parish Council, and for inspection by the ratepayers.

After the necessary notice of the intention of the Parish Council to apply for confirmation of the byelaws, and after due consideration of any objections made by persons locally interested, the byelaws duly executed at a meeting of the Parish Council under the hands and seals of the chairman, presiding at the meeting, and two other members of the council, should be transmitted to the Board, together with copies of the newspapers containing the advertisement required by section 184.

The management and regulation of recreation grounds, village greens, and other open spaces, has been treated at some length as it is a matter with which many parish councils will be called upon to deal, and the subject is often one of importance in village life, but there are other additional powers conferred in parish councils to be mentioned. The Parish Council are also empowered by section 8 (1)—

- (e) to utilise any well, spring, or stream within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person.

Recreation grounds, &c.  
Byelaws.  
Water supply.

The scope of this provision is limited. Land for the purpose of a supply of water can only be acquired by agreement (s. 9 (15)).

- (f) to deal with any pond, pool, open ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any Local Authority.

Nuisances

Nothing in these provisions is to derogate from any obligation of a District Council with respect to the supply of water or the execution of sanitary works (s. 6 (3)).

- (g) to acquire by agreement any right of way, whether within their parish or an adjoining parish, the acquisition of which is beneficial to the inhabitants of the parish or any part thereof.

Right of way.

This confers the power to acquire the easement, but, where necessary, land for the purpose of the provision may be acquired by agreement. It is expressly provided by section 9 (15), that land for the purpose of a right of way shall not be acquired compulsorily.

- Gifts. (h) to accept and hold any gifts of property, real or personal, for the benefit of the inhabitants of the parish or any part thereof.
- Incidental works. (i) to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property<sup>1</sup> not being property relating to affairs of the church or held for an ecclesiastical charity.
- Contributions. (k) to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other Parish Council to do or contribute towards the expense of doing any of the things above mentioned.

The power to make contributions is a wide one. It will enable the Parish Council to expend money in cases where the property dealt with is not necessarily held for parochial purposes. If Parish Councils combine in doing any of the things mentioned, they may concur in appointing a joint committee<sup>2</sup> to manage the business (s. 57 (1)).

Footpaths. A Parish Council may, subject to the provisions of the Act with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but neither this power nor its exercise is to relieve any other authority or person from any liability with respect to such repair or maintenance (s. 13 (2)).

A public footpath is a highway, and as a highway is repairable either by the highway authority or by the occupier of the adjoining land, *ratione tenuræ* (i.e., by reason of the tenure by which the owner holds the land), except in the case of a highway informally dedicated to the public since the passing of the Highway Act, 1835, when it may be the duty of no one to repair and maintain the highway—*Eyre v. New Forest Highway Board* (56 J. P. 517). Where a parish maintains and repairs its own highways it ceases under the Act to do so from the appointed day, unless the County Council postpone for a period the operation of section 25 (1) which transfers the powers of existing highway authorities to the Rural District Council<sup>3</sup>. Where a parish forms part of a Highway District the existing highway authority is the Highway Board. In a parish not maintaining its own highways after the appointed day, the provision in section 13 (2) will empower the Parish Council to maintain and repair, at the cost of the parish, public footpaths, other than those at the side of public roads, notwithstanding that those footpaths are repairable either by the highway authority or by a person *ratione tenuræ*. But that authority or person is not to be relieved from any liability to repair or maintain such footpaths. The object of the provision is no doubt to enable the Parish Council to maintain in a more efficient state such footpaths as are specially serviceable to the parishioners, and it will

<sup>1</sup> See page 53.

<sup>2</sup> See page 137.

<sup>3</sup> See page 147.



apply to a public footpath, although it has been informally dedicated to the public since the passing of the Highway Act, 1835 (*see* 5 & 6, Will. IV. c. 50, s. 23). The provision will practically override the decision in *Eyre v. New Forest Highway Board*, above cited, that a parish has no right to repair in such a case. As a rule, rural footpaths are not maintained or repaired at all, and, indeed, the conditions on which they are dedicated to the public may render it difficult for any works of maintenance or repair to be carried out unless some arrangement is made with the owner of the soil. An owner may have reserved the right to plough the land (*Meyer v. Woodgate*, L. R. 5 Q. B., 26; 39 L. J., M. C., 21; 21 L. T., 458), or otherwise deal with its surface. If the Parish Council undertake to repair and maintain any footpath, and in fact do so, no means are provided for enforcing the liability of any other authority to repair or maintain the footpath.

Footpaths.

The consent of the Parish Council and of the District Council will be required for the stopping, in whole or in part, or diversion, of a public right of way within a rural parish, and the consent of the Parish Council will be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense. Public notice of a resolution of the Parish Council to give any such consent must be given by the Council,<sup>1</sup> and the resolution is not to operate—

Stopping or diversion of public right of way.

- (a) unless it is confirmed by the Parish Council at a meeting held not less than two months after the public notice is given; nor
- (b) if a Parish Meeting held before the confirmation resolve that the consent ought not to be given (s. 13 (1)).

The provisions of the Highway Act, 1835 (5 & 6 Will. IV., c. 50), as to the stopping or diversion of a public right of way could be set in motion by the vestry or by a private person desiring to stop the right of way. Those provisions are now subject to the modifications made by the Local Government Act. The powers of the vestry in the matter are transferred to the Parish Council, or, where there is no Parish Council, to the Parish Meeting. The person, or Parish Council, or Meeting desiring to stop or divert the way, are required to give notice to the District Council (or to the Surveyor of Highways or other highway authority where the transfer of highway powers under section 25 (1) of the Local Government Act, 1894, is postponed by the County Council). The consents of the Parish Council and of the District Council must then be given, and before the resolution of the Parish Council to give any such consent can operate the conditions prescribed by section 13 (1) must be observed. In a parish without a separate Parish Council the consent of the Parish Meeting will be substituted for that of the Parish Council (s. 19 (8)). If the requisite

<sup>1</sup> As to public notice by a Parish Council *see* page 34.

Stopping or  
Diversion of  
public right of  
way.

consents are obtained, the District Council, Surveyor of Highways, or other highway authority then apply to two justices to view the way proposed to be stopped (5 & 6 Will. IV. c. 50, s. 84), and if the justices think the way unnecessary, or that it should be diverted, the justices direct the Council or surveyor or authority to fix notices at each end of the way, and insert the same notice for four successive weeks in a newspaper generally circulating in the county, and affix a like notice upon the church doors for four successive Sundays. A certificate stating that the highway should be diverted, or that it is unnecessary, together with, in the latter case, their reason for the opinion is given by the justices and enrolled at quarter sessions (s. 85). There is an appeal to quarter sessions by any person aggrieved by the justices' certificate (s. 88).

Highway  
unnecessary  
for public use.

Any Highway Authority may apply, under section 24 of the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77), to the justices in petty sessions for an order declaring a highway unnecessary for public use, and that it ought not to be repaired at the public expense. Public notices are required to be given of the day fixed by the justices for hearing objections to the making of such an order. An appeal lies to quarter sessions against an order. Application may also be made to quarter sessions to revive, with respect to any highway so declared to be unnecessary for public use, the liability of the highway to be maintained at the public expense when, from any change of circumstances, the highway has become of public use.

Default of  
District Council  
re Sewers, &c.

A Parish Council are empowered to complain to the County Council of the default of a Rural District Council in providing or maintaining sewers, or in providing a water supply, or in enforcing the Public Health Acts, or in maintaining and repairing any highway<sup>1</sup> (Local Government Act, 1894, s. 16), and to petition the County Council where a Rural District Council refuse to take proceedings on the representation of the Parish Council that a public right of way has been unlawfully stopped or obstructed, or a roadside waste has been unlawfully encroached upon<sup>2</sup> (s. 26 (4)).

Contracts for  
Sewerage or  
Water Supply.

They are entitled to notice from the Rural District Council before that Council enter upon any contract for the sewerage or water supply of the parish<sup>3</sup> (s. 16 (3)).

Inquiry by  
County Council  
re Boundary.

They have the right to appear at any inquiry held by a County Council with reference to an order for the alteration of the boundary of the parish or the division of the parish, or for the union of the parish, or part thereof with another parish, and may petition the Local Government Board against the confirmation of the order<sup>4</sup> (s. 36 (7)).

<sup>1</sup> See page 155.

<sup>2</sup> See page 158.

<sup>3</sup> See page 146.

<sup>4</sup> See page 192.

A Rural District Council may delegate to a Parish Council any power which may be delegated to a parochial committee under the Public Health Acts, and those Acts are to apply as if the Parish Council were a parochial committee, and where the District Council appoint a parochial committee consisting partly of members of the District Council and partly of other persons, those other persons must, where there is a Parish Council, be, or be selected from, the members of the Parish Council (s. 15).

Powers of  
Parochial  
Committee.

A parochial committee may be formed, under section 202 of the Public Health Act, 1875, by a Rural District Council for any contributory place within their district, that is, for any parish or part of a parish not comprised in a special drainage district, or for any special drainage district. The committee may consist wholly of district councillors, but where the committee appointed consists partly of members of the District Council and partly of other persons, the latter must, where there is a Parish Council, be, or be selected from, the members of the Parish Council.

Constitution of  
Parochial  
Committee.

A parochial committee is subject to any regulations and restrictions imposed by the District Council. No jurisdiction is to be given to the committee beyond the limits of the contributory place for which it is formed, nor may any powers be delegated to the committee, except powers which are exerciseable within the contributory place by the District Council. It is to be deemed to be the agent of the District Council, and its appointment is not to relieve the Council from any statutory or other obligation. The District Council may empower the committee to incur expenses not exceeding a prescribed amount. The parochial committee must report its expenditure to the Rural District Council as and when directed by them, and the amount so reported, if legally incurred, must be discharged by the Council (38 & 39 Vict. c. 55, s. 202).

Limits of  
Powers of  
Parochial  
Committee.

The delegation to a Parish Council of any powers which may be delegated to a Parochial Committee referred to in section 15, may apparently take place, although the parish for which the Parish Council is elected, forms part of a Special Drainage District.

The Parish Council, acting as a parochial committee by delegation will, unless the District Council otherwise direct, have the services of the clerk of the District Council (s. 17 (5)).

#### BORROWING POWERS.

A Parish Council are prohibited, without the consent of a Parish Meeting and the approval of the County Council, from incurring any expense or liability which will involve a loan (s. 11).

Consents.

The Parish Council may, with the consent of the County Council

Purposes for which Parish Council may borrow.

and the Local Government Board, borrow for any of the following purposes, namely :—

- (a) for purchasing any land, or building any buildings, which the Parish Council are authorised to purchase or build ; and
- (b) for any purpose for which the Council are authorised to borrow under any of the Adoptive Acts ; and
- (c) for any permanent work or other thing which the Council are authorised to execute or do, and the cost of which ought, in the opinion of the County Council and the Local Government Board, to be spread over a term of years (s. 12 (1) ).

So far as borrowing by a Parish Council for the purposes of any of the Adoptive Acts is concerned, the borrowing must be under the provisions of the Local Government Act, 1894, although the incidence of the charge will ultimately be on the rate applicable to the purposes of the particular adoptive Act (s. 12 (3) ). The power to borrow is not necessarily restricted to the purpose mentioned in paragraph (b). If any purpose not authorised by an Adoptive Act as a purpose for borrowing can be shown to come within the terms of paragraphs (a) and (c), the Parish Council, subject to the provisions of the Local Government Act, would be empowered to borrow for that purpose.

A Parish Council are also empowered to borrow in order to meet the payment of any capital sum required of them for the purpose of adjustment of property and liabilities<sup>1</sup> (s. 68 (4) ) as, for instance, where a group under a common Parish Council is dissolved (s. 38 (5) ). No consent is necessary for such a borrowing by the Parish Council.

Conditions.

The borrowing by a Parish Council must be in like manner, and subject to the like conditions, as a local authority may borrow for defraying expenses incurred in the execution of the Public Health Acts, and sections 233, 234, and 236 to 239 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), are to apply accordingly, except that the money is to be borrowed on the security of the poor rate and of the whole or part of the revenues of the Parish Council, and except that the limit of the sum to be borrowed is one half of the assessable value instead of the assessable value for two years (s. 12 (1) ).

The sections of the Public Health Act, 1875, referred to are printed at pages 321 and 322 of the Appendix.

The limit of a sum borrowed by a Parish Council must not at any time exceed, with the balance of all their outstanding loans, in the whole, one-half the assessable value of the parish calculated at the date of the borrowing. The money may be borrowed for such time not exceeding 60 years, as the Parish Council, with the sanction of the Local Government Board, determine in each case. Repayment may be made either by equal annual instalments of principal, or of

<sup>1</sup> See page 180.

principal and interest, or by means of a sinking fund (38 & 39 Vict. c. 55, s. 234). A register of mortgages on the poor rate (s. 237), and a register of the transfers of mortgage must be kept at the office of the Parish Council by the clerk (s. 238). The annual charge, whether of principal or interest, in respect of any loan of a Parish Council will, for the purpose of the limitation of the rate for their expenses, be included as part of those expenses (Local Government Act, 1894, s. 11 (3)).

Borrowing  
Powers of.  
—  
Register of  
Mortgages and  
Transfers.

A County Council may lend to a Parish Council any money which the Parish Council are authorised to borrow, and may, if necessary, without the sanction of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose (s. 12 (2)).

Loans from  
County Council.

The manner in which County Councils may borrow is provided for by section 69 of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

# EXPENSES.

Without the consent of a Parish Meeting, the Parish Council cannot incur expenses or liabilities which will involve a rate exceeding threepence in the pound for any local financial year; and the sum raised by the Council in any local financial year for their expenses, must not, in any case, exceed a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year. Any annual charge, whether of principal or interest, in respect of any loan is to be included among expenses for the purpose of the limitation of the rate to sixpence in the pound, but expenses under the Adoptive Acts, whether in respect of a loan or otherwise, and highway expenses, where in pursuance of an order of the County Council the highways continue after the appointed day to be maintained by the parish,<sup>1</sup> are not to be included for the purpose (ss. 11 (1) (3), 82 (2)).

Limitation of  
rate.

The local financial year begins on the 1st day of April (Local Government Act, 1888, s. 73; Local Government Act, 1894, ss. 58 (1), 75 (1)).

The expenses of a Parish Council and of a Parish Meeting, including the expenses of any poll, are payable out of the poor rate; and, where there is a Parish Council, that Council are to pay the expenses of the Parish Meeting. For the purpose of obtaining payment of such expenses, the Parish Council, and, where there is no Parish Council, the chairman of the Parish Meeting, have the same

Mode of  
defraying  
expenses.

<sup>1</sup> See page 147.

Expenses.  
Contribution  
Orders.

powers as a Board of Guardians possess for the purpose of obtaining contributions to their common fund (s. 11 (4)).

The overseers are required under this provision to pay to the Parish Council or chairman of the Parish Meeting, from time to time, out of the poor rates made and collected by them, such sums as they may require, and in such proportions as they may direct. A contribution order in arrear is enforceable by a distress warrant of justices against any one of the overseers upon whom a copy of the order has been served (2 & 3 Vict. c. 84, s. 1; 12 & 13 Vict. c. 103, s. 7; 14 & 15 Vict. c. 105, s. 9). It should order and direct the payment of a specified sum to a named person on a certain day. In the case of a Parish Council, the order should direct payment to the treasurer (if any). The order may direct the contribution to be paid either in one sum or by instalments, on days to be specified in the order.

Demand note  
for rate.

The demand note for any rate levied by the overseers for defraying the expenses of a Parish Council or a Parish Meeting, together with other expenses, must state in the form prescribed by the Local Government Board, the proportion of the rate levied for the expenses of the Council or Meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts (s. 11 (5)).

In the case of one Adoptive Act, namely the Public Libraries Act, 1892, it will be necessary where the Act is in force in a rural parish to distinguish separately on the demand note the proportion of the rate (if any) raised for the purpose of that particular adoptive Act.<sup>1</sup>

#### CUSTODY OF PARISH BOOKS AND DOCUMENTS.

Registers of  
Baptisms,  
Marriages,  
Burials, &c.

The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish, is to remain as provided by the existing law unaffected by the Local Government Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, are either to remain in their existing custody, or to be deposited in such custody as the Parish Council may direct. The incumbent and churchwardens on the one part, and the Parish Council on the other, are to have reasonable access to all such books, documents, writings, and papers, and any difference as to custody or access is to be determined by the County Council (s. 17 (8)).

Section 1 of the 52 Geo. III. c. 136, requires registers of baptisms and burials solemnised according to the rites of the established

<sup>1</sup> See page 103.

church to be made and kept by the rector or officiating minister of every parish, or of any chapelry where the ceremonies of baptism and burial may be lawfully performed, in books provided at the expense of the parishes or chapelries. These books, and all register books previously in use, are to be deemed to belong to every such parish and chapelry, and to be kept by and remain in the power and custody of the officiating minister, and be by him safely and securely kept in a dry well-painted iron chest, to be provided and repaired, as occasion may require, at the expense of the parish or chapelry. This chest is to be constantly kept locked in some dry, safe, and secure place within the usual place of residence of the officiating minister, if resident, within the parish or chapelry, or in the parish church or chapel, and the books are not to be taken from the chest except for the purpose of making entries therein, or for the inspection of persons desirous to make search therein, or to obtain copies of entries in the same, or to be produced as evidence in some court of law, or to be inspected as to their condition, or for some of the purposes of the Act (s. 5). A copy of every duplicate register book of marriages is to be kept by the rector, vicar or curate, with the registers of baptisms and burials for the parish or chapelry within which the baptism or burial has been solemnised [Births and Deaths Registration Act, 1836 (6 & 7 Will. IV. c. 86) s. 33].

Registers of  
Baptisms and  
Burials.

Iron chest.

Marriage  
Registers.

Vestry books, accounts, and vouchers of parish officers, certificates, orders of court and of justices, and other parish books, documents, writings, and public papers of every parish, except the registers of marriages, baptisms, and burials, are required to be kept by such person, and deposited in such place and manner as the Parish Council direct [Vestries Act, 1818 (58 Geo. III. c. 69) s. 6].

Place of deposit  
of parochial  
documents.

One copy of every confirmed instrument of apportionment of tithes is to be deposited with the incumbent, and church or chapel wardens of the parish, or such other fit person as the Commissioners or their successors approve, to be kept by them "with the public books, writings and papers of the parish" [Tithe Act, 1836 (6 & 7 Will. IV. c. 71), s. 64].

Tithe apportion-  
ment.

Power is given to quarter sessions, on the application of persons interested, for the deposit of the copy of the instrument of apportionment in some more convenient or secure custody or place, to order it to be deposited with such other persons, or in such other custody, as the court think fit [Tithe Act, 1846 (9 & 10 Vict. c. 73) s. 17].

A copy of every Inclosure award, under the Inclosure Act, 1845, is to be deposited with the church or chapel wardens of the parish, to be kept by them with the public books, writings and papers of the parish or is to be deposited with such other fit persons as the Commissioner approve [Inclosure Act, 1845 (8 & 9 Vict. c. 118), s. 146]. The

Inclosure awards

Custody of  
parish books and  
documents.

Board of Agriculture now exercise the powers of the Tithe and of the Inclosure Commissioners.

The general effect of the provision in the Local Government Act, 1894, as to the custody of books and documents is, that the registers of baptisms, marriages and burials, and all books and documents wholly or partly relating to the affairs of the church or to ecclesiastical charities, except tithe apportionments or other documents specially directed by law to be kept with the public books, writings and papers of the parish, will remain in their existing custody, which generally is the custody of the incumbent. All other public books, writings and papers of the parish, and all documents directed by law to be kept therewith, will also remain in their existing custody, unless the Parish Council direct that they shall be deposited in other custody.

Access to parish  
books.

The ecclesiastical authorities, namely the incumbent and churchwardens, and the civil authorities, namely the Parish Council, will respectively have the right to reasonable access to the books and documents in the custody of the other. The County Council will determine any difference arising as to the custody or access to such books and documents.

Parish divided  
by the Act.

Where a parish is divided by the Act, the County Council may by order provide for the application to different parts of that parish of the provisions for the custody of parish documents (s. 36 (3)). The order is by section 36 (10) to be deemed to be an order under section 57 of the Local Government Act, 1888.<sup>1</sup>

Documents  
deposited with  
parish clerk of  
rural parish.

All documents required by statute or by standing orders of parliament to be deposited with the parish clerk of a rural parish are, after the election of a Parish Council, to be deposited with the clerk, or, if there is none, with the chairman of the Parish Council, and the enactments with respect to the inspection of, and taking copies of, and extracts from, any such documents will apply as if the clerk, or chairman, as the case may be, were mentioned therein (s. 17 (7)).

Plans of railways  
and waterworks.

A company constructing a railway are not to proceed in the execution of the railway (8 & 9 Vict. c. 20, ss. 8, 9), and a company constructing waterworks are not to begin to execute the waterworks (10 & 11 Vict. c. 17, ss. 8, 9), unless they have previously deposited a plan and section of all alterations from the original plan and section approved by parliament with the parish clerk of every parish affected by the alterations. The standing orders of both Houses of Parliament relative to private Bills require copies of plans and sections (and of so much of the Book of Reference thereto as relates to a parish) of all proposed works which involve the taking of property, to be deposited for public inspection with the parish clerk of the parish affected. It will now be the duty of the clerk or chairman of the

<sup>1</sup> See page 192.



Parish Council in a parish with a Parish Council to receive and to retain the custody of all such documents (7 Will. IV. & 1 Vict. c. 83, s. 1), and to permit them to be inspected and copied on payment of a fee of one shilling for the first hour, and one shilling for every subsequent hour, and sixpence for every hundred words copied by the person inspecting (s. 2).

Custody of documents.

Inspection.

Every County Council are directed from time to time to inquire into the manner in which the public books, writings, papers, and documents under the control of the Parish Council or Parish Meeting are kept with a view to the proper preservation thereof, and are required to make such orders as they think necessary for such preservation. Their orders must be complied with by the Parish Council or Parish Meeting (s. 17 (9)).

Supervision by County Council.

The previous subsections of section 17 concerning parish books and documents relate to a Parish Council, but this provision applies to books and documents under the control of the Parish Meeting as well as of the Parish Council. So far as a Parish Meeting are concerned, the books and documents under their control will be such as relate to their own proceedings and business.

An order of the County Council relating to the custody of parish documents does not require confirmation by the Local Government Board (s. 40).

Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the Parish Council of the parish or Parish Meeting (s. 58 (4)).

Inspection of documents.

#### PAROCHIAL CHARITIES.

In connection with the control of the Parish Council over parochial property, it has been shown that the trustees of certain classes of property held for the benefit of the inhabitants of a rural parish may transfer the same to the Parish Council or their appointees<sup>1</sup> and it now remains to explain the further provisions of the Local Government Act, 1894, with respect to parochial charities.

Nothing in the Act is to affect the trusteeship, management, or control of any elementary school<sup>2</sup> (s. 66), and therefore the following observations will not apply to any charity of which the object is an elementary school.

Saving for elementary schools.

<sup>1</sup> See page 54.

<sup>2</sup> An "elementary school," except in the case of an evening school [Education Code, (1890) Act 1890 (53 & 54 Vict. c. 22) s. 1], means a school in which the principal part of the education given is elementary education. Whether it is a day or evening school, the ordinary fees must not exceed 9d a week [Elementary Education Act, 1870 (33 & 34 Vict. c. 75) s. 2; Local Government Act, 1894, s. 75 (2) ].

Parochial  
Charities.Definition of  
"parochial  
charity."

A "parochial charity" for the purpose of the Act means a charity, the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes (s. 75 (2)). Where the benefits of a charity extend, or the separate distribution of the benefits extends to more than five civil parishes, the charity is not a parochial charity unless all the civil parishes are comprised within a single ancient ecclesiastical parish.

Definition of  
"ecclesiastical  
charity."

An "ecclesiastical charity" includes a charity, the endowment whereof is held for some one or more of the following purposes:—

- (a) for any spiritual purpose which is a legal purpose; or
- (b) for the benefit of any spiritual person or ecclesiastical officer as such; or
- (c) for use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

It also includes any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of the Act, namely, 5th March, 1894, mainly by or at the cost of members of any particular church or denomination (s. 75 (2)).

This definition is not exhaustive. It only states what the expression "ecclesiastical charity" *includes*. There may be ecclesiastical charities not covered by the enumerated purposes, but it is difficult to call to mind any such charities that would not be explicitly covered by the definition.

Where any endowment of a charity, other than a building held for any of the purposes mentioned in the definition of ecclesiastical charity, is held in part only for some of such purposes, the charity, so far as that endowment is concerned, is to be an ecclesiastical charity: and the Charity Commissioners are required, on application by any person interested, to make such provision for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to the Act (s. 75 (2)).

Definition of  
"trustees."

Under the expression "trustees" are included persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.<sup>1</sup>

<sup>1</sup> See page 54.

Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity, such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, are to be trustees in their place. When the charity is not an ecclesiastical charity, this enactment is to apply as if the churchwardens as such were specified therein as well as the overseers (s. 14 (2)).

Parochial  
Charities.  
—  
Appointment of  
trustees

This provision will enable the Parish Council to appoint as trustees the fittest persons for the office, and thus prevent the question of the management of parochial charities in any way influencing the appointment of overseers. There is no necessary relation between the two offices of overseers and of trustees. So far as regards the appointment of trustees to replace the overseers, the provision applies to all charities, whether ecclesiastical or non-ecclesiastical, but so far as regards the appointment of trustees to replace the churchwardens the provision applies to non-ecclesiastical charities only.

Where the vestry of a rural parish were entitled, under the trusts of a charity other than an ecclesiastical charity, to appoint any trustees or beneficiaries of the charity, the appointment is to be made by the Parish Council of the parish, or in the case of beneficiaries, by persons appointed by the Parish Council (s. 14 (4)).

Appointment of  
beneficiaries.

The ancient vestry will continue to exist for the exercise of any power of appointing trustees or beneficiaries of ecclesiastical charities.

Where the governing body of a parochial charity other than an ecclesiastical charity does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the Parish Council or Parish Meeting, the Parish Council may appoint additional members of that governing body not exceeding the number allowed by the Charity Commissioners in each case; and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the Parish Council or Parish Meeting.<sup>1</sup> Nothing in this provision is to prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity (s. 14 (3)).

Appointment of  
additional  
trustees.

It is only in the case of a charity without any popular elective element on the board of trustees that the Parish Council may appoint additional members of that body. The fact that the overseers or churchwardens are members of the board of trustees will not prejudice the power of the Parish Council to appoint

<sup>1</sup> See page 171, with respect to the application of this provision to boroughs and other urban districts.

Parochial  
Charities.

Appointment of  
additional  
trustees.

additional trustees, as that power will vest in them as soon as they come into office, and the overseers then in office will have been appointed by the justices, and not by the Parish Council. If the parochial charity is for the benefit of more than one civil parish (s. 75 (2)), the appointment of additional trustees would have to be made by a joint committee of the Parish Councils concerned.<sup>1</sup> So far as regards an appointment of additional trustees by a Parish Meeting that Meeting are empowered to appoint an additional trustee in the case only of a charity managed by a sole trustee, and the power to appoint will be subject to the Charity Commissioners approving an increase of the number of trustees to three.

Term of office  
of trustees.

The term of office of a trustee appointed under these provisions is to be four years, but of the trustees first appointed, one half, as nearly as may be, to be determined by lot, are to go out of office at the end of two years from the date of their appointment, but are to be eligible for re-appointment (s. 14 (7)).

Parish divided  
by the Act.

Where a parish is divided by the Act, the County Council may by order provide for the application to different parts of that parish of the provisions with respect to the appointment of trustees or beneficiaries of a charity. The order will require the approval of the Charity Commissioners (s. 36 (3)). It is by section 36 (10) to be deemed to be an order under section 57 of the Local Government Act, 1888;<sup>2</sup> but it will not require confirmation by the Local Government Board (s. 40). Where a parish divided by the Act is wholly urban, the County Council could make no order with respect to charities, as the provisions of the Act relate only to rural parishes, subject to the power of the Local Government Board to confer on a Town Council or other body<sup>3</sup> the powers of a Parish Council with respect to charities. Where any parish divided by the Act is only partly urban, an order of the County Council might apparently apportion the endowment, and deal with the appointment of trustees or beneficiaries as far as regards the new rural parish.

Saving for  
recent charities.

The provisions with respect to the appointment of trustees by the Parish Council, except so far as the appointment is transferred from the vestry, are not to apply to any charity until the expiration of forty years from the date of its foundation, or, in the case of a charity founded before the passing of the Act, namely 5th March, 1894, by a donor, or by several donors, any one of whom is living at the passing of the Act, until the expiration of forty years from the passing of the Act, unless with the consent of the surviving donor or donors (s. 14 (8)).

Trustee to  
receive no  
benefit.

Whilst a person is trustee of a parochial charity he is not, nor is his wife or any of his children, to receive any benefit from the charity (s. 14 (9)).

<sup>1</sup> See page 137 as to Joint Committees.

<sup>2</sup> See page 192.

<sup>3</sup> See page 169.

The accounts of all parochial charities, not being ecclesiastical charities, are to be laid annually before the Parish Meeting of any parish affected thereby, and section 44 of the Charitable Trusts Amendment Act, 1855 (18 & 19 Vict., c. 124), is to apply (Local Government Act, s. 14 (6) ).

Parochial  
Charities.  
Accounts.

The accounts which the trustees of every charity are required to make out, are an account of their gross income for the year, an account of all balances in hand at the commencement of the year and of receipts during the year, an account of all payments during the year, and an account of all monies owing to or from the charity. A copy of the accounts of parochial charities must within fourteen days after the day appointed under section 44 of the 18 & 19 Vict. c. 124,<sup>1</sup> for making out the accounts, be delivered to the chairman of the Parish Meeting, and be presented by him at the next General Parish Meeting, and a copy must be entered in the minutes of the last meeting.

The names of the beneficiaries of dole charities<sup>2</sup> are to be published annually in such form as the Parish Council, or, where there is no Parish Council, the Parish Meeting think fit (s. 14 (6) ).

Names of bene-  
ficiaries to be  
published.

The draft of every scheme relating to a charity, not being an ecclesiastical charity, which affects a rural parish is to be communicated, on or before the publication of the notice of the proposal to make an order for such scheme, in accordance with section 6 of the Charitable Trusts Act, 1860 (23 & 24 Vict. c. 136), to the Council of the parish, and where there is no Parish Council to the chairman of the Parish Meeting. In the case of a Parish Council, the Council may, subject to the provisions of this Act with respect to restrictions on expenditure,<sup>3</sup> and to the consent of the Parish Meeting, either support or oppose the scheme, and for that purpose the Council are to have the same right as any inhabitants of a place directly affected by the scheme (Local Government Act, 1894, s. 14 (5) ).

Draft schemes.

No order establishing a scheme for the administration of any charity is to be made by the Charity Commissioners before the expiration of one calendar month after public notice of the proposal to make the order has been given. The Charity Commissioners are to receive and consider all objections and suggestions relating to the order, and they may withhold, suspend, or modify their proposed order as they shall thereupon, or in the result of further inquiry or otherwise, think expedient (23 & 24 Vict. c. 136, s. 6). An appeal against an order of the Charity Commissioners establishing a scheme for the administration of a charity may be made, within three months of the definitive

<sup>1</sup> Section 44 of the Act of 1855 is reprinted in full at page 253 of the Appendix.

<sup>2</sup> According to Coke on Littleton "dole" is the "share of any man in a lot meadow or common meadow which is divided yearly and distributed by lots among the owners." The rent or produce of "dole charities" is distributed among the recipients of the charity.

<sup>3</sup> See page 69.

Parochial  
Charities.  
—  
Draft Schemes.

publication of the order, by any two inhabitants of any parish or district in which the charity may be specially applicable by means of a petition in a summary way to the Chancery Division of the High Court (s. 8), and the same right of appeal, subject to the restrictions on expenditure and the consent of the Parish Meeting, is conferred on the Parish Council. For the conditions prescribed by the statute in the case of an appeal, *see* the observations made in connection with the following provisions of the Local Government Act, 1894, relating to appeals to the High Court respecting questions arising under the Act in relation to charities.

Determination of  
questions.

Questions arising under the Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, are, at the request of any trustee, beneficiary, or other person interested, to be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court brought within three months after such determination. But an appeal to the High Court of Justice from any such determination of the Charity Commissioners may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.

Appeal.

An appeal, with the leave of the High Court or Court of Appeal, but not otherwise, lies to the Court of Appeal against any decision under this provision (s. 70 (2) (3)).

The Court upon or before the hearing of any appeal from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891, or at any stage of the proceedings, may require from the Charity Commissioners their reasons for making the order appealed against, and may remit the order to them for reconsideration, or may make any substitutive or other order. The Court may make any order respecting the costs of the appeal, and may, before hearing the appeal, require proper security for the costs, and no appeal is to be presented before the expiration of twenty-one days written notice by the appellant to present such appeal shall have been delivered to the Charity Commissioners at their office (23 & 24 Vict., c. 136, s. 8) and to the solicitor who acts for the attorney-general in ex-officio proceedings relating to charities (32 & 33 Vict., c. 110, s. 11).

Annual  
List of charities.

Where the Vestries Act, 1831, has been adopted by the ratepayers, or is hereafter adopted by the Parish Council, the Parish Council must cause to be made out yearly a list of the several freehold, copyhold, and leasehold estates, and of all charitable foundations and bequests belonging to the parish and under their control. The list is to contain a detailed account of the place where such estate or charitable foundation is situate, or in what mode such bequest is invested, and to specify the names of the beneficiaries (except where

the charity is allotted to the poor of the parish generally), and the amount of benefit in each case, and to state in whom the estates are vested and the names of the trustees for each charity (1 & 2 Will. IV. c. 60, s. 39). The Act only extends to parishes which are within or form part of a city or town, and which contain more than 800 persons rated as householders who have paid poor rates within the preceding year (s. 43). In other words, the Act cannot be adopted in a rural parish unless it is a "town," or forms part of a "town," and contains 800 householders rated in respect of premises for which poor rates have been paid in the preceding year.

Parochial  
Charities.  
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Annual List.

### PLACE OF MEETING FOR PAROCHIAL PURPOSES.

In any rural parish in which there is no suitable public room vested in the Parish Council, or in the chairman of a Parish Meeting and the overseers, which can be used free of charge for the purposes mentioned, the parochial electors and the Parish Council are entitled to use, free of charge, at all reasonable times, and after reasonable notice, for the purpose of—

Use of school and  
other rooms.

- (a) the Parish Meeting or any meeting of the Parish Council ; or
- (b) any inquiry for parochial purposes by the Local Government Board or any other Government department or local authority ; or
- (c) holding meetings convened by the chairman of the Parish Meeting or by the Parish Council, or if as to allotments, in the manner prescribed by the Allotments Act, 1890, or otherwise as the Local Government Board may by rule prescribe, to discuss any question relating to allotments, under the Allotments Acts, 1887 and 1890, or under this Act ; or
- (d) the candidature of any person for the District Council or the Parish Council ; or
- (e) any committee or officer appointed, either by the Parish Meeting or Council or by a County or District Council, to administer public funds within or for the purposes of the parish

any suitable room in the schoolhouse of any public elementary school receiving a grant out of moneys provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate ; but this enactment is not to authorise the use of any room used as part of a private dwelling-house, nor to authorise any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police, with the hours during which it is used for these purposes.

If any question arises as to what is reasonable or suitable, it may be determined, in the case of a schoolhouse, by the Education Department ; in the case of a room used for the administration of justice or

Determination  
of questions

## Meetings.

police, by a Secretary of State; and in any other case, by the Local Government Board (s. 4 (1) (3)).

What school or other rooms may be used.

The opening words of this provision limit the privilege conferred upon the parochial electors and the Parish Council to the use of rooms situated in their parish, but in other respects the scope of the provision is exceedingly wide. Not only rooms in elementary schools, but every room maintainable out of local rates will be available for the purposes mentioned, except where a suitable public room vested in the parochial authorities exists. The room must be suitable for the purpose for which it is required. Board rooms and offices of Boards of Guardians, rooms under the control of the standing joint committee of the Quarter Sessions and the County Council for the purpose of the police and other matters, and rooms provided under any of the Adoptive Acts, will be at the disposal of the parochial electors and Parish Council.

Notice of room being required.

There is no provision in the Act with respect to the manner in which the parochial electors may avail themselves of the use of a room, but these electors can, as a body, act only in a Parish Meeting, and when the use of a room is required, a resolution directing the required notice to be given should be passed by the Meeting. In practice it would be found convenient that a standing resolution should be passed at each assembly of the Parish Meeting empowering a committee to take the necessary steps in preparation for the next assembly. The reasonable notice to the persons having control over the room required by section 4 (1) could be given by such committee. The Parish Council could direct their clerk to give the required notice.

In every case the requisition for the use of the room must be made by the parochial electors or the Parish Council, as the provision which permits rooms to be used for local enquiries, committees, and meetings other than Parish Meetings or meetings of the Parish Council, confers no right on the persons conducting the inquiries, or forming the committees, or holding meetings, to themselves requisition a room. The reference to "meetings convened by the chairman of the Parish Meeting, or by the Parish Council," appears to cover ordinary public meetings, if convened by the chairman or Council. Parish Meetings and meetings of the Parish Council are, it will be noticed, expressly mentioned as being purposes for which rooms may be used. The meetings as to allotments are restricted to meetings convened in the manner prescribed by the Allotments Act, 1890, or otherwise as prescribed by the Local Government Board, but the Act of 1890 prescribes no manner in which "public meetings to discuss any question relating to allotments" are to be convened. Section 5 of the Act<sup>1</sup> which authorises, under certain conditions, schoolrooms to

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<sup>1</sup> See page 372 of the Appendix.



be used free of charge for such public meetings, requires a notice of the intention to hold the meeting to be given to the school authorities not less than six days before the meeting. It does not prescribe the manner in which the meeting itself is to be convened.

Place of Meeting  
Use of school or  
other room.

In debate on the consideration of the Lords' amendments to the Local Government Bill on the 15th of February, 1894, Mr. Acland stated that the Education Department would issue as early as possible an indication of the interpretation they would apply to the word "reasonable," which would go into some detail.

If, by reason of the use of the room for any of the purposes mentioned in the section, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part or its appurtenances, or the furniture of the room, or the apparatus for instruction, the expense or damage is to be defrayed as part of the expenses of the Parish Meeting or Parish Council or inquiry as the case may be; but when the meeting is called for the purpose of the candidature of any person, the expense or damage is to be reimbursed to the Parish Meeting or the Parish Council by the persons by whom or on whose behalf the meeting is convened (s. 4 (2)).

Expenses or  
damage.

The expenses or damages will, in the case of an inquiry for parochial purposes, be defrayed as part of the expenses of the inquiry, but in all other cases they will be defrayed in the first instance as part of the expenses of the Parish Meeting or Parish Council, in accordance with the provisions of section 11 (4) of the Act.<sup>1</sup> When a meeting for the purpose of the candidature of any person for the District or the Parish Council is convened, it is provided that the expense or damage shall be reimbursed to the Parish Meeting or the Parish Council by the persons by whom or on whose behalf the meeting is convened. This assumes that meetings for the purpose of candidature will be convened only at the request of persons interested, and the Act does not authorise the Parish Meeting or the Parish Council themselves to convene any such meeting unless at the request of persons who are personally responsible to them for any expense or damage incurred. For every use of the room, other than for an inquiry and any candidature, including meetings for allotments and any committee or officer appointed by a County or District Council to administer public funds within or for the purposes of the parish, the expenses or damages incurred are repayable out of the poor rate as part of the expenses of the Parish Council or Parish Meeting, as the case may be.

The vestry of a parish have been accustomed as of right under the common law to meet in the vestry room attached to a church, and

Right of Parish  
Council or Parish  
Meeting to meet  
in church or  
vestry room.

<sup>1</sup> See page 69.

Place of Meeting  
 Vestry room of  
 a church.

even in the sacred edifice itself where there was no vestry room, or where it was insufficiently large for the meeting. But in parishes where certain Acts were in force this common law right was subject to exceptions. Where the vestry was elected under the Vestries' Act, 1831 (1 & 2 Will. IV., c. 60), it was directed that if the vestry room was not sufficiently large and commodious, the vestry meeting should be held elsewhere within the parish, but not in the church or chapel (s. 29). In a parish where an order under the Vestries' Act, 1850, (13 & 14 Vict., c. 57), had been made<sup>1</sup> after the expiration of twelve months from the making and publishing of the order, no meeting of the vestry was to be held in the church or chapel, nor, except in case of urgency and with the previous approval of the Local Government Board, in the vestry room attached to the church or chapel (s. 2).

These Acts are rarely in force in rural parishes, and consequently the vestry in those parishes generally have the old common law right of meeting in the vestry room or church. Whether that right is transferred to the Parish Council or Parish Meeting is a matter of importance to many parishes. The general "powers" of the vestry are transferred by section 6 (1) of the Local Government Act, 1894, to the Parish Council of a parish having a separate Parish Council, and by section 19 (4) of the Act to the Parish Meeting of a parish not having a separate Parish Council. Under the term "powers" are expressly included "rights, jurisdiction, capacities, privileges, and immunities" by section 100 of the Local Government Act, 1888, which is made applicable to the Local Government Act, 1894, by section 75 (1) of the new Act. There seems no reason to doubt that among the rights and privileges of the vestry which are transferred to the Parish Council or Parish Meeting, as the case may be, is the right or privilege of meeting in the vestry or church. In a parish having a separate Parish Council, it will be that council and not the Parish Meeting who will have the right or privilege of using the vestry or church for their meetings: but in a parish not having a separate Parish Council, the right or privilege will, subject to the provisions of any grouping order, belong to the Parish Meeting.

Meetings  
 not to be held on  
 licensed premises

No Parish Meeting or meeting of a Parish Council is to be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting, either free of charge or at a reasonable cost (s. 61).

In many rural parishes the only available room for parochial and other public business forms part of licensed premises. Where that is so, or where any other suitable room cannot be obtained except at an unreasonable cost, the prohibition in the section will not apply.

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<sup>1</sup> See page 52.

The important subjects of the powers of the Parish Council under the adoptive Acts, and the acquisition of land by the Parish Council for the purpose of their duties, are separately treated in the two following chapters.

Adoptive Acts.  
Acquisition of  
Land.

## CHAPTER V.

### *The Adoptive Acts—General Provisions as to Adoption and Execution—Transfer of Powers under—Provisions of respective Acts.*

Definition.

THE title of “the Adoptive Acts” is given by section 7 of the Local Government Act, 1894, to the following Acts, inclusive of any Acts amending the same, namely,—

- (a.) THE LIGHTING AND WATCHING ACT, 1833;
- (b.) THE BATHS AND WASHHOUSES ACTS, 1846 TO 1882;
- (c.) THE BURIAL ACTS, 1852 TO 1885;
- (d.) THE PUBLIC IMPROVEMENTS ACT, 1860;
- (e.) THE PUBLIC LIBRARIES ACT, 1892.

The observations in this chapter almost exclusively relate to rural parishes, as the Act does not generally alter the mode of adoption or the execution of the adoptive Acts in urban districts. But certain provisions enable an urban district council to transfer to themselves the powers of any authority executing the Acts within their district, and direct that, after the appointed day, the approval of the urban district council must be obtained to the adoption of an Act for part of the district.

#### General Provisions of the Local Government Act, 1894.

Adopted by parish meeting

The adoptive Acts come into force only where adopted, and, as from the appointed day, the power of adopting any of them in a rural parish belongs exclusively to the parish meeting (s. 7 (1)).

Not less than fourteen days’ notice of the Parish Meeting, at which it is proposed to adopt any of the adoptive Acts, must be given (Schedule 1, Part 1, r. 3). An Act is adopted by means of a resolution passed by the requisite majority at the Parish Meeting.<sup>1</sup>

Notice of Meeting and mode of adoption.

Some of the adoptive Acts can be adopted not only for a parish but for a part of a parish, and where that is the case, the Act may be adopted by a Parish Meeting held for that part (s. 7 (4)). In dealing with the subject of Parish Meetings, allusion has been made to the provisions relating to the holding of parish meetings for part of a rural parish.<sup>2</sup>

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<sup>1</sup> See Chapter II. as to proceedings of Parish Meetings.

<sup>2</sup> See page 20.

The powers conferred on the Parish Meeting in relation to the adoptive Acts are not confined to determining whether any of these Acts shall be put in force in the parish, for, although, as will be shortly shown, the execution of the Acts will usually be entrusted to other hands, the Parish Meeting will be able to control to a considerable extent the amount of the rates and expenditure under the Acts.

General  
provisions.  
—  
Control by  
Parish Meeting.

Where it is provided by an adoptive Act that a particular majority of the Vestry or other voters should agree to the adoption or abandonment of the Act, or as to other matters, the like majority of the Parish Meeting, or, if a poll is taken, of the parochial electors, will be required, and where the opinion of the voters under any Act was to be ascertained by voting papers, the opinion of the parochial electors is to be ascertained by a poll taken in manner provided by the Local Government Act, 1894 (s. 7 (2)), *i.e.*, as prescribed by Rules to be framed by the Local Government Board under section 48 (8), to which reference is made in dealing with elections under the Act.<sup>1</sup> Any one parochial elector is entitled to demand a poll in the case of a resolution submitted to a parish meeting for the adoption of any of the adoptive Acts (Schedule 1, Part 1, r. 7).

Where, under any of the adoptive Acts, the consent or approval of, or other act on the part of the vestry or meeting of ratepayers or voters of a rural parish, was required in relation to any expense or rate, the consent or approval or other act devolves, under the Local Government Act, 1894, on the Parish Meeting in the place of the vestry or meeting of inhabitants or voters (s. 7 (3)). In some instances under the Acts, the Parish Meeting will be required to determine the amount of the rate.

When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a Parish Council, the Parish Council will be the authority for the execution of the Act (s. 7 (7)); but in parishes without a Parish Council,<sup>2</sup> the Commissioners or other body required to be appointed by the particular adoptive Act will be the authority for its execution, unless, on the application of the Parish Meeting, the County Council confer on that meeting the power of a Parish Council to execute the Act. Where such a power is conferred on the Parish Meeting, they can appoint a committee of their own number to exercise that power. The acts of the committee must be submitted to the Parish Meeting for their approval (s. 19 (3) (10)).

Authority for  
execution of  
the Acts.

<sup>1</sup> See pages 221 and 235.

<sup>2</sup> The parishes without a Parish Council, in which any of the adoptive Acts will be in force, are not likely to be very numerous. From a reply given by the President of the Local Government Board to a question asked in the House of Commons on the 7th of December, 1893, it appeared that in very few parishes with a population of less than 200 were any of the adoptive Acts then in force.

General provisions.

Authority for the execution of the Acts.

The Parish Council, on coming into office, will also, as a matter of course, be the authority for the execution of an adoptive Act in those cases where the area under any existing commissioners or other authority is co-extensive with the parish, and all the powers, duties, and liabilities of that authority will be transferred to the Parish Council (s. 7 (5)). But in cases where the area is not co-extensive with the parish, other provisions will, according to circumstances, take effect after the appointed day.

Transfer of powers to Parish Council where Act is in force in part of parish.

Where any adoptive Act is in force in a part only of a rural parish, the existing authority under the Act, or the Parish Meeting for that part, may transfer the powers, duties, and liabilities of the authority to the Parish Council. The transfer may be made, subject to any conditions with respect to the execution of the Act, by means of a committee, as to the authority or Parish Meeting seems fit, and any such conditions may be altered by the Parish Meeting (s. 53) (1)). It will be observed that it is not obligatory that the transfer should be made, and that either the existing authority or the Parish Meeting may make the transfer and lay down the conditions for the execution of the Act by a committee of the Parish Council. On the transfer taking effect, the existing authority will cease to exist, and any subsequent alteration of the conditions would have to be made by the Parish Meeting.

Transfer of powers to joint committee where Act is in force in area comprising more than one parish.

Where the area under the existing authority is not comprised within one rural parish, the powers and duties of the authority will be transferred to the Parish Councils of the rural parishes wholly or partly comprised in that area, or, if the area is partly comprised in an urban district, to those Parish Councils and the District Council of the urban district. Until other provision is made in pursuance of the Act, the transferred powers are to be exercised by a joint committee appointed by those Councils.<sup>1</sup> Where any such rural parish has not a Parish Council, the Parish Meeting will appoint members of such joint committee (s. 53 (2)). This provision, unlike that relating to the case of an adoptive Act being in force in part only of a rural parish, is imperative, and the transfer must take place.

Urban parishes.

So far, the provisions mentioned relate, except where otherwise indicated, to rural parishes; but the Act also contains provisions affecting the adoption and execution of the adoptive Acts in urban parishes which may conveniently be referred to here.

Transfer of powers to urban district council and adoption of Acts in district.

Where there is in any urban district, or part of an urban district, any authority constituted under any of the adoptive Acts, the Council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the Council as from the date specified in the resolution, and upon that date the

<sup>1</sup> As to joint committee, *see* page 137.

same will be transferred accordingly, and the authority will cease to exist, and the Council will be the successors of that authority. After the appointed day it will not be possible to adopt an Act for any part of an urban district without the approval of the Council of that district (s. 62). These provisions of section 62 have application to the Burial Acts and the Public Improvements Act, 1860, only, as in an urban district the other adoptive Acts must, without exception, be adopted and executed by the urban authority exclusively.

General  
provisions.  
—

The property, debts, and liabilities of any authority under any of the adoptive Acts, whose powers are transferred in pursuance of the Act, will continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property must be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish must be apportioned accordingly (s. 53 (3)). The apportionment may be made by agreement of the Parish Councils or other authorities interested, and in default of agreement, by arbitration under the Arbitration Act, 1889, (Local Government Act, 1894, s. 68).

Property of  
superseded  
authorities.

It will be the duty of every authority whose powers are transferred to liquidate, as far as practicable before the appointed day, all current debts and liabilities incurred by the authority (s. 86 (2)).

Liquidation of  
liabilities by  
superseded  
authorities.

The officers of any authority under the adoptive Acts, whose powers are transferred to the Parish or District Council, will become the officers of that council, and hold their offices by the same tenure and upon the same terms and conditions as before, and, while performing the same duties, will receive not less salary or remuneration than before. They will be entitled to compensation for any loss of emoluments<sup>1</sup> (s. 81). Any byelaws or regulations of any authority in force at the time of the transfer will continue in force as if made by the Council to whom the powers are transferred, and may be revoked or altered accordingly (s. 87).

Transfer of  
officers of  
superseded  
authorities.

Byelaws.

So far as rural parishes are concerned, a means of avoiding the stereotyping under all circumstances of existing areas under the adoptive Acts is provided by the Local Government Act, 1894, for on the application of a Parish Council, the County Council may, by order, alter the boundaries of any such area if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions, or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right (s. 53 (4)).

Alteration of  
boundaries.

<sup>1</sup> See pages 183 to 185 as to existing officers.

General Provisions.	The Local Government Act will not otherwise alter the incidence of charge of any rate levied to defray expenses under any of the adoptive Acts, and rates will continue to be made and charged as before, and property applicable to the payment of such expenses will continue to be so applicable (s. 7 (6)).
Incidence of rates.	
Limitation of rates.	Expenses under the adoptive Acts will not be reckoned as expenses of the Parish Council for the purpose of the limitation of the rate to sixpence in the pound under section 11 (3), but where there is no Parish Council, these expenses will be included as expenses of the Parish Meeting for the purpose of the similar limitation under section 19 (9) of the rate levied for defraying the expenses of that Meeting. The limitations on rates laid down by some of the adoptive Acts are referred to under the respective Acts.
Form of demand note.	The demand note for any rate levied for defraying the expenses of a Parish Council or Parish Meeting must state in the prescribed form the proportion (if any) of the rate levied for the purpose of any of the adoptive Acts (s. 11 (5)).
Borrowing.	A Parish Council who borrow for the purposes of any of the adoptive Acts must do so in accordance with the Local Government Act, but the charge for the purpose of any of the adoptive Acts will ultimately be on the rate applicable to the purposes of that Act (s. 12 (3)). As pointed out in Chapter IV, the power of a Parish Council to borrow for the purposes of the adoptive Acts may be wider under the new Act than it would have been under the adoptive Acts. <sup>1</sup>
Compulsory acquisition of	A Parish Council executing the Acts can acquire land compulsorily under the Local Government Act, 1894, for the purposes of those Acts. <sup>2</sup> Where the Acts authorised the purchase of land it was by agreement only.
Audit of accounts.	Another effect brought about by the Parish Council executing the Acts is that the accounts thereby become subject to audit by the district auditor. <sup>3</sup> With the exception of accounts of Public Library Commissioners the accounts of authorities are not, under the adoptive Acts, subject to government audit.
Construction of enactment.	The general provision in section 52 (5) of the Local Government Act, 1894, directing that all enactments in any Act, whether general or local and personal, relating to any powers, duties, or liabilities transferred by the Act to a Parish Council or Parish Meeting from the vestry, or overseers, or churchwardens and overseers, are, subject to the provisions of the Act, and, so far as circumstances admit, to be construed as if any reference therein to the vestry, or to the overseers, or to the churchwardens and overseers, referred to the Parish Council or Parish Meeting as the case requires, and the enactments are to be construed with such modifications as may be necessary for carrying the Act into effect, has application to the construction of the adoptive Acts.

<sup>1</sup> See page 68.<sup>2</sup> See page 104.<sup>3</sup> See page 174.



## Provisions of and Procedure under the respective adoptive Acts, as modified by the Local Government Act, 1894.

In the following exposition of the provisions of the adoptive Acts the details of the provisions are dealt with at such length as to indicate the machinery of their adoption and execution, and the main objects which their adoption is intended to secure.

### The Lighting and Watching Act, 1833.

(3 & 4 Will. IV. c. 90).

This Act may be adopted by a majority of two-thirds of the votes of the parochial electors of any parish at a Parish Meeting or a poll consequent thereon (s. 8). Adoption.

Its provisions may be adopted as to lighting or as to watching, or as to lighting and watching, as may be deemed expedient (s. 71), and it may be adopted for a part only of a parish by a Parish Meeting held for that part (s. 73).

If the Parish Meeting convened to adopt the Act do not determine to adopt it, one year must elapse before the question of the adoption of the Act can be again submitted to the Parish Meeting (s. 16). Interval between meetings to adopt.

If the Act is adopted for a rural parish without a Parish Council, the Parish Meeting must forthwith determine that a certain number of inspectors, not being more than twelve nor less than three, shall be elected to carry the purposes of the Act into effect (s. 8). Election of inspectors where no Parish Council.

The inspectors must be resident ratepayers, assessed to the poor rate on an annual value of £15 (s. 17). One-third of their number go out of office annually, and their places are filled at the annual parish meeting for the purposes of the Act. The outgoing inspectors are eligible for re-election (s. 19). Casual vacancies must be filled immediately when the number of inspectors is reduced to less than three (s. 21). The inspectors must meet on the first Monday in every month at noon at some convenient place or office, previously publicly notified (s. 22). One-third of the body form a quorum, except in the case where only three inspectors have been appointed, when the quorum is two (s. 23). Qualification, retirement, &c., of inspectors.

The inspectors elected by two or more adjoining parishes may unite for the better carrying into effect the purposes of the Act (s. 61). In a parish with a Parish Council, this and other provisions of the Act would, after the adoption of the Act, be carried into execution by that Council. Inspectors for adjoining parishes may unite.

The inspectors or Parish Council, as the case may be, may provide and keep up fire engines, with pipes and other utensils proper for the same, and may provide proper places for keeping the same, and may place such engines under the care of some proper person or persons, Fire engines.

Lighting and  
Watching Act.

and make him or them such allowance for his or their trouble as may be thought reasonable (s. 44).

## Lighting.

They may contract with any person or company for lighting the streets, roads, and other places either with electricity, gas, oil, or with any other material, or in any other manner, or for furnishing lamps, lamp irons, lamp posts, watchboxes, posts, chains, pales, rails, and other necessary things.

## Watching.

The provisions of sections 39 to 43 of the Act authorising the appointment of watchmen and determining their duties are now practically obsolete. Watchmen under the Act are superseded where a county police are established.

Acquisition of  
land.

Land and buildings may be purchased or rented for the purposes of the Act (s. 59), but the Act confers no compulsory powers of acquisition. A Parish Council executing the Act would be able to purchase land compulsorily under section 9 of the Local Government Act, 1894.<sup>1</sup>

Appointment of  
Officers.

The inspectors or Parish Council may appoint and pay a treasurer and other officers, and hire and rent offices (s. 24). The treasurer must give security to their satisfaction (s. 25).

## Annual meeting

The Act requires the inspectors within one month next after the expiration of twelve months from the day of adoption of the Act to give notice to the churchwardens that they are ready to produce their accounts and vouchers, and thereupon the churchwardens are to give notice of a meeting of ratepayers within ten days of receipt of such notice, for the purpose of producing such accounts, and for the election of inspectors, and for determining the amount of money to be raised for the current year. In the following years the meeting is to be held on the same day, except when it falls on a Sunday, and then on the day following (s. 18).

The accounts and vouchers are to be verified by a statutory declaration made before two justices by the inspectors (s. 19).

The provisions of sections 18 and 19 of the Lighting and Watching Act require some consideration in view of the altered circumstances brought about by the Local Government Act. Few parishes with a population so small as not to have a Parish Council are likely to adopt the Act, and where a parish has a Parish Council that Council will, as mentioned before, be substituted for the inspectors. In that case the Parish Council should take the necessary steps to convene the annual assembly of the Parish Meeting for the purpose of the Act at such a time as the ratepayers are directed to meet by the Act, but of course no inspectors will be appointed by that meeting. So far as

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<sup>1</sup> As to such compulsory purchase, *see* Chapter VI.

Parish Councils are concerned, the provisions of the Local Government Act relating to their accounts<sup>1</sup> will in practice supersede the provisions of the Act of 1833 concerning the same matter. In the case of a parish without a Council the procedure to be followed under the Lighting and Watching Act, 1833, as modified by the Local Government Act, 1894, is by no means clear. The inspectors will be performing their statutory duty if they communicate, as directed by the Act of 1833, to the churchwardens, for the powers and duties of the churchwardens under the Act are not affected by the Act of 1894, where there is no Parish Council. The churchwardens as such have no power to convene a Parish Meeting, and reliance must therefore be placed on the persons authorised to convene Parish Meetings<sup>2</sup> voluntarily undertaking to convene the annual assembly of the Parish Meeting for the purpose of the Lighting and Watching Act.

Lighting and  
Watching Act.  
Annual Meeting.

It is important that such a Parish Meeting should be convened every year, as the total amount of money to be raised in any one year for the purpose of the Act, is to be fixed and determined by the Parish Meeting at their first meeting and subsequent yearly meeting (3 & 4 Will. IV., c. 90, s. 9). The expenses are paid out of a rate levied by the overseers in the same manner as a poor rate, but the owners and occupiers of houses, buildings, and property (other than land)<sup>3</sup> are to be rated at and pay a rate in the pound three times greater than that at which the owners and occupiers of land are to be rated at and pay (s. 33). Tithes are assessable as land (14 & 15 Vict., c. 50).

Expenses.

The Act confers no borrowing powers. Such powers seem unnecessary.

Borrowing.

After the expiration of three years from the adoption of the Act the Parish Meeting may determine that from and after a certain date the Act shall no longer be in force in the parish (3 & 4 Will. IV., c. 90, s. 15). A simple majority only is required for the abandonment of the Act.

Abandonment  
of Act.

The Lighting and Watching Act, 1833, is, so far at least as lighting is concerned, superseded in urban districts, and in any place within a rural district where the powers of an urban authority under the Public Health Act, 1875, to light the streets markets and public buildings in such place, have been conferred upon the Rural Sanitary Authority or District Council by an order of the Local Government Board (38 & 39 Vict., c. 55, s. 163).

Operation of Act  
in parish lighted  
under P. H. Act,  
1875.

<sup>1</sup> See page 173.

<sup>2</sup> See page 14.

<sup>3</sup> Coal mines are rateable, not as "land," but as "property other than land."—*Thursby v. Overseers of Briercliffe-with-Extwistle* ([1894] 1 Q.B., 507; 10 T.L.R., 397; W.N. (1894), 63).

## The Baths and Washhouses Acts, 1846 to 1882.

These comprise the following statutes—

THE BATHS AND WASHHOUSES ACT, 1846, (9 & 10 Vict. c. 74);  
 THE BATHS AND WASHHOUSES ACT, 1847, (10 & 11 Vict. c. 61);  
 THE BATHS AND WASHHOUSES ACT, 1878, (41 & 42 Vict. c. 14); and  
 THE BATHS AND WASHHOUSES ACT, 1882, (45 & 46 Vict. c. 30).

Adoption.

The Baths and Washhouses Acts may be adopted with the approval of the Local Government Board<sup>1</sup> for any parish not within an urban district (9 & 10 Vict., c. 74, s. 1). A resolution of the Parish Meeting adopting the Acts must be carried by at least two-thirds of the number of votes given on the question at the meeting, or the poll consequent thereon, and a copy of the resolution extracted from the minutes and signed by the chairman, must be sent to the Local Government Board, and when the approval of that Board has been signified the Acts come into operation in the parish (s. 5).

Appointment of Commissioners where no Parish Council.

In the case of a parish without a Parish Council, the Parish Meeting are to appoint, not less than three nor more than seven ratepayers of the parish, Commissioners for carrying the Acts into execution. One-third of the Commissioners, or as nearly as may be one-third, (to be determined among themselves) are to go out of office yearly, but are to be eligible for immediate re-appointment (s. 6). Any vacancies in the commissionership may be filled up by the Parish Meeting when and as the meeting think fit (s. 8). The Parish Meeting are also required to appoint yearly two persons not being Commissioners to audit the accounts of the Commissioners and report thereon to the meeting (s. 15). The Commissioners must meet at least once a month (s. 9); one-third of their number is a quorum, but when only three Commissioners have been appointed, the quorum may be two (s. 11). The Commissioners are a corporate body, with a common seal, and they may hold and convey any lands vested in them for the purposes of the Acts (s. 20).

Appropriation of parish lands.

Lands vested in the Guardians or others for the general benefit of the parish may, with the approval of the Guardians and the Local Government Board (and of the Parish Meeting of a parish without a Parish Council), be appropriated for the purposes of the Acts, or lands may be purchased or hired (s. 24); but the Acts do not authorise the compulsory acquisition of land. Where, therefore, Commissioners execute the Acts, they cannot purchase or take any lands under the Lands Clauses Acts otherwise than by agreement (10 & 11 Vict. c. 61, s. 4). This does not apply to a Parish Council executing the Acts, who under section 9 of the Local Government Act, 1894, are empowered to acquire land compulsorily for any purpose for which they are authorised to acquire it. Upon the lands purchased or

Acquisition of land.

<sup>1</sup> 34 & 35 Vict., c. 70.

otherwise acquired for the purposes of the Acts, the Commissioners or Parish Council executing the Acts may erect any buildings suitable for public baths and washhouses, and make any open bathing places and convert any buildings into public baths and washhouses (9 & 10 Vict. c. 74, s. 25). There may be open drying grounds in connection with the washhouses, and covered swimming baths may also be provided or acquired under the Acts (41 Vict. c. 16, s. 3). Existing baths and washhouses may be purchased or leased, and the trustees of any public baths and washhouses may, under certain conditions, transfer them to the commissioners or Parish Council, as the case may be, for the purposes of the Acts (9 & 10 Vict. c. 74, s. 27; 45 & 46 Vict. c. 30, s. 2). The number of baths and washing tubs provided for the labouring class must not be less than twice the number of baths and washing tubs of higher classes (9 & 10 Vict. c. 74, s. 36; 10 & 11 Vict. c. 61, s. 5). Gas and water companies may in their discretion grant and furnish supplies of water or gas, either without charge or on other favourable terms (9 & 10 Vict. c. 74, s. 28).

Baths and Wash-  
houses Acts.  
Erection of  
baths, &c.

From the beginning of November to the end of March, any swimming bath, whether covered or open, may, for any period, be kept closed, or a gymnasium or other means of healthful recreation, may be established therein, or it may be used as an empty building for the purposes of healthful recreation or exercise. Any portion of the public baths when not required may be used for holding parish meetings or for other parochial purposes; but no covered or open swimming baths when closed may be used for music or dancing (41 & 42 Vict. c. 14, s. 5). Charges may be made for the use of the gymnasium or other means of recreation, or for the use of any covered swimming bath as an empty room (s. 8).

Gymnasium.  
Letting of closed  
swimming bath.

The maximum charges for baths and washhouses are fixed by the Acts of 1847 and 1878, as follows:—

Charges

#### 1. BATHS FOR THE LABOURING CLASSES.

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above eight years old :

Cold bath, or cold shower bath, any sum not exceeding...	One Penny.
Warm bath, or warm shower bath, or vapour bath, any	
sum not exceeding ... ..	Two Pence.

For several children, not above eight years old, nor exceeding four, bathing together :

Cold bath, or cold shower bath, any sum not exceeding...	Two Pence.
Warm bath, or warm shower bath, or vapour bath, any	
sum not exceeding ... ..	Four Pence.

#### 2. BATHS OF ANY HIGHER CLASS.

Such charges as the Council and the Commissioners respectively think fit, not exceeding in any case three times the charges above mentioned for the several kinds of baths for the labouring classes.

Baths and  
Washhouses  
Acts.

Charges.

### 3. WASHHOUSES FOR THE LABOURING CLASSES.

Every washhouse to be supplied with conveniences for washing and drying clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying :

For one hour only in any one day, any sum not exceeding One Penny.

For two hours together, in any one day, any sum not exceeding ... .. Three Pence.

Any time over the hour or two hours respectively, if not exceeding five minutes, not to be reckoned.

For two hours not together, or for more than two hours in any one day, such charges as the Council and the Commissioners respectively think fit.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the Council and the Commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

### 4. WASHHOUSES OF ANY HIGHER CLASS.

Such charges as the Council and the Commissioners respectively think fit.

### 5. OPEN BATHING PLACES.

Where several persons bathe in the same water :

For one person .. .. One Penny.

### 6. COVERED SWIMMING BATHS.

1st Class.—Any sum not exceeding Eight pence for each person.

2nd Class.—Any sum not exceeding Four pence for each person.

3rd Class.—Any sum not exceeding Two pence for each person.

Appointment of  
Officers.

The Parish Council or Commissioners, as the case may be, are required to appoint a clerk and such other officers and servants as may be necessary, and, with the approval of the Parish Meeting, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office (9 & 10 Vict. c. 74, s. 122 ; 41 & 42 Vict. c. 14, s. 7).

Borrowing.

The Commissioners with the sanction of the Parish Meeting and the approval of the Local Government Board, may borrow for the purposes of the Acts (9 & 10 Vict. c. 74, s. 21 ; 41 & 42 Vict. c. 14, s. 9).

A Parish Council would borrow under the provisions of section 12 of the Local Government Act, 1894.

Byelaws.

Full powers are conferred on the Commissioners or Parish Council, as the case may be, to make byelaws for the management, use, and regulation of the baths and other institutions provided under the Acts. Such byelaws require the approval of the Local Government Board (9 & 10 Vict. c. 74, s. 34 ; 41 & 42 Vict. c. 14, s. 6) who have issued model forms of byelaws under these enactments, which may be obtained from them on application. Any byelaws in force at the time of the transfer of powers from the existing Commissioners, will continue in force as if made by the authority to whom the transfer is made (Local Government Act, 1894, s. 87).

The expenses of executing the Acts are payable out of the poor rate (9 & 10 Vict. c. 74, s. 16), and the Parish Meeting may and shall order the overseers to levy with and as part of the poor rate, such sums as they shall deem necessary, and the amount shall be paid according to the order of the meeting to the person appointed by the Commissioners to receive the same, or to the Parish Council executing the Acts (s. 17). Any surplus receipts from the rates and from the revenue of the baths and washhouses, after providing a balance sufficient to meet the probable liabilities for the next year, are to be paid to the overseers in aid of the poor rate (s. 18).

Baths and  
Washhouses  
Acts.  
—  
Expenses.

Section 19 of the Act of 1846, contains provisions enabling two or more neighbouring parishes which have adopted the Acts to concur in carrying them into execution.

Union of parishes

If, after any institutions provided under the Acts have been established for seven years, the Parish Council (or the Parish Meeting in accordance with the previous recommendation of the Commissioners) determine them to be unnecessary or too expensive to be kept up, the Council or Commissioners, with the approval of the Local Government Board, may sell the same for the best price that can reasonably be obtained, and the net proceeds are to be paid to the credit of the poor rate (9 & 10 Vict. c. 74, s. 32).

Abandonment of  
Act.

### The Burial Acts, 1852 to 1885.

These Acts consist of the following Statutes :—

Burial Acts.  
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THE BURIAL ACT, 1852 (15 & 16 Vict. c. 85).

THE BURIAL ACT, 1853 (16 & 17 Vict. c. 134).

THE BURIAL ACT, 1854 (17 & 18 Vict. c. 87).

THE BURIAL ACT, 1855 (18 & 19 Vict. c. 128).

THE BURIAL ACT, 1857 (20 & 21 Vict. c. 81).

THE BURIAL ACT, 1859 (22 Vict. c. 1).

THE BURIAL ACT, 1860 (23 & 24 Vict. c. 64).

THE BURIAL ACT, 1862 (25 & 26 Vict. c. 100).

THE BURIAL ACT, 1871 (34 & 35 Vict. c. 33).

THE BURIAL LAWS AMENDMENT ACT, 1880 (43 & 44 Vict. c. 41).

THE BURIAL AND REGISTRATION ACTS (DOUBTS REMOVAL) ACT, 1881

(44 & 45 Vict. c. 2).

THE BURIAL BOARDS (CONTESTED ELECTIONS) ACT, 1885

(48 & 49 Vict. c. 21).

A Parish Meeting for the purpose of determining whether a burial ground shall be provided for the parish may be convened at any time, and must be convened where an order in council has been, or is intended to be made for discontinuing burials (wholly or subject to any exception or qualification) in any burial ground of any parish for which no Burial Board has been appointed (18 & 19 Vict. c. 128, s. 3). If it be resolved by the Parish Meeting that a burial ground shall be provided, a copy of the resolution extracted from the minutes and signed by the chairman, must be sent to the Home Secretary (15 & 16 Vict. c. 85, s. 10). His approval of the resolution is necessary (34 & 35 Vict. c. 33).

Adoption.

Burial Acts.  
Adoption.

For the purposes of the Local Government Act, 1894, the passing of a resolution to provide a burial ground under the Burial Acts, 1852 to 1885, is to be deemed to be an adoption of those Acts (Local Government Act, 1894, s. 7 (8)).

Appointment of  
Burial Board  
where no Parish  
Council.

In a parish without a Parish Council, the Parish Meeting after resolving to provide a burial ground, must appoint from three to nine ratepayers to be the Burial Board. The incumbent, although not a ratepayer, may be appointed. One-third of the members of the Burial Board retire annually and are eligible for re-appointment (15 & 16 Vict. c. 85, s. 11). Vacancies must be filled up within one month of notification to conveners of Parish Meetings, and, in default, may be filled up by the Burial Board (18 & 19 Vict. c. 128, s. 4.) The reasonable expenses of taking a poll on the appointment or re-appointment of members are to be defrayed by the Burial Board as expenses under the Acts (48 & 49 Vict. c. 21). Three members are a quorum (15 & 16 Vict. c. 85, s. 14). Two persons must be appointed yearly by the Parish Meeting to audit the accounts of the Burial Board and report thereon to the Parish Meeting (s. 18). The Burial Board are incorporated and may hold land for the purposes of the Acts (s. 24).

Burial ground to  
be provided.

The Parish Council or Burial Board, as the case may be, are required with all convenient speed to provide a burial ground, and to make arrangements for facilitating interments therein. They are to have reference to the convenience of access to the burial ground from the parish, but the ground may be either within or without the parish (s. 25). With the approval of the Parish Meeting, land may be purchased to form a burial ground, or existing cemeteries may be purchased. Instead of actually providing a burial ground, contracts may be entered into with any cemetery company for the interment of the bodies of persons who would have had rights of interment in the burial ground of the parish (s. 26). A Burial Board cannot acquire land compulsorily, as only the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands by agreement are incorporated with the Burial Acts (s. 27), but a Parish Council executing the Burial Acts may acquire land compulsorily for any purpose for which they are authorised to acquire it (Local Government Act, 1894, s. 9). A burial ground would be such a purpose. Lands vested in the Guardians or others for the general benefit of the parish, may with the approval of the Guardians and the Local Government Board (and of the Parish Meeting of a parish without a Parish Council) be appropriated for the purposes of a burial ground, but where any land so appropriated is subject to any charitable use, the land is to be taken on such conditions as the Chancery Division of the High Court appoint and direct (15 & 16 Vict. c. 85, s. 29).

Acquisition of  
land.

Appropriation of  
parish land.

A Parish Council or Burial Board, as the case may be, can lay out and embellish any burial ground provided by them in such manner as



may be fitting and proper, and build according to a plan to be approved by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the established church, and such burial ground may be consecrated by the bishop, but an unconsecrated portion must be set apart, and on the unconsecrated portion may be built a suitable chapel or chapels for the performance of funeral services (s. 30). Under 18 & 19 Vict. c. 128, s. 10, where the parish is unanimous the whole ground may be consecrated, and within ten years another, unconsecrated, burial ground may, if desired, be provided separately.

Since, however, the passing of the Burial Laws Amendment Act, 1880 (43 & 44 Vict. c. 41), there is practically no legal distinction as to the services which may be performed in consecrated and unconsecrated ground.

The Parish Council or Burial Board, as the case may be, may make arrangements for facilitating the conveyance of the bodies of the dead from the parish or place of death to the burial ground provided under the Act, or to any other place of burial (15 & 16 Vict. c. 85, s. 41), and with the approval of the Parish Meeting of a parish without a Parish Council, may hire, take on lease, or otherwise provide fit and proper places in which bodies may be received and taken care of, previous to interment, and make arrangements for the reception and care of the bodies to be deposited therein (s. 42). An appeal against the refusal or neglect of the Parish Meeting to authorise necessary expenditure may, under certain circumstances, be made to the Home Secretary (18 & 19 Vict. c. 128, s. 6).

The Parish Council or Burial Board must conform to and obey the regulations in relation to burial grounds and mortuaries provided under the Acts, made by the Home Secretary for the protection of the public health and the maintenance of public decency (15 & 16 Vict. c. 85, s. 44).

The Parish Council or Burial Board, as the case may be, are required to appoint a clerk and such other officers and servants as shall be necessary for their business, and for the purposes of their burial ground, and with the approval of the Parish Meeting may appoint reasonable salaries, wages and allowances for such clerks, officers and servants, and when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business (s. 15).

Money may be borrowed with the sanction of the Parish Meeting for providing and laying-out any burial ground, and building a chapel or chapels therein. The approval of the Treasury is required for borrowing by a Burial Board (s. 20). A Parish Council would borrow under the Local Government Act, 1894 (s. 12.)

Expenses of carrying the Acts into execution are chargeable upon

Burial Acts.  
Burial ground.

Conveyance of  
bodies to burial  
ground.

Mortuaries

Regulations of  
Home Secretary.

Appointment of  
Officers, &c.

Borrowing.

Expenses.

Burial Acts.  
Expenses.

the poor rates, and the expenses to be so incurred for or on account of any parish in providing and laying out a burial-ground and building the necessary chapel or chapels thereon are not to exceed such sum as the Parish Meeting shall authorise (15 & 16 Vict. c. 85, s. 19); but if the Parish Meeting refuse or neglect to authorise the expenditure of necessary sums, the Parish Council or Burial Board may make a representation to the Home Secretary, who may after inquiry authorise them without further authority, sanction, or approval of or by the Parish Meeting to incur the necessary expenditure (18 & 19 Vict. c. 128, s. 6). Any surplus receipts from the rates and from income arising from the burial ground, after providing a balance sufficient to meet the probable liabilities for the next year, are to be paid to the overseers in aid of the poor rate (15 & 16 Vict. c. 85, s. 22).

Appeal to Home  
Secretary.

Adoption for part  
of civil parish.

A burial ground may be provided for any parish, new parish, township, or other district not separately maintaining its own poor (18 & 19 Vict. c. 128, s. 2; 20 & 21 Vict. c. 81, s. 5), and in that case the overseers of the civil parish must levy the contribution for the purposes of the burial ground by an addition to the poor rate levied in that part of the civil parish which comprises the burial ground district, or by a separate rate levied in that part of the civil parish only (18 & 19 Vict. c. 128, s. 13).

Joint Burial  
Board.

Section 23 of the Act of 1852 contains provisions enabling two or more parishes which have respectively resolved to provide burial grounds to concur in providing one burial ground, under the management of a Joint Burial Board, incorporated as "The Burial Board for the Parishes of — and —, in the County of —" (15 & 16 Vict. c. 85, s. 24). A Joint Burial Board may at any time before a burial ground has been provided be dissolved by the constituent parishes (20 & 21 Vict. c. 81, s. 2).

Public Improve-  
ments Act.

### The Public Improvements Act, 1860

(23 & 24 Vict. c. 30).

Adoption by  
Parish Council

The Act may be adopted for any parish having a population of 500 or upwards, according to the last account from time to time taken by authority of Parliament (s. 2). A parish with a population of less than 500 according to the last published census, cannot adopt the Act, and the Act will, when adopted, be invariably executed by the Parish Council. The Act is, by section 2, to be adopted in the same manner as the Baths and Washhouses Act, 1846. There must, therefore, be a two-thirds majority of the Parish Meeting, and the approval of the Local Government Board is necessary.

Recreation  
ground, &c.

Under this Act the Parish Council may purchase or lease lands and accept gifts or grants of land, for the purpose of forming any public walk, exercise or playground, and may levy rates for maintaining the

same, and for removal of any nuisance or obstruction to the free use and enjoyment thereof, and for improving any open walk or footpath, or placing convenient seats, or shelters from rain and for other purposes of a similar nature (s. 1).

Public Improve-  
ments Act.

Expenses are raised out of the poor rate (s. 3); but a rate for the purposes of the Act must not exceed 6d. in the £ (s. 7), and it must be agreed to by a majority of at least two-thirds of the Parish Meeting (s. 4). Before such rate can be imposed a sum, in amount not less than one-half of the estimated cost of such proposed improvement, must be raised, given or collected by private subscription or donation (s. 6).

Expenses.

Generally the Parish Council will have for the purposes of the Act similar powers to those conferred by the Baths and Washhouses Act, 1846 (s. 3).

Powers for  
executing Act.

No borrowing powers are conferred by the Public Improvements Act, 1860; but, notwithstanding that the Act confers no such powers, a Parish Council could borrow under the Local Government Act, 1894, for the purpose of purchasing lands for a public walk, exercise or playground, or for any other purposes of the Act of 1860 that came within the general purposes for which the Local Government Act gives a Parish Council borrowing powers.<sup>1</sup>

Borrowing.

## The Public Libraries Act, 1892

(55 & 56 Vict. c. 53).

Public Libraries  
Act.

This Act may be adopted for any rural parish subject to a condition that the maximum rate or addition to a rate to be levied for the purposes of the Act in the parish, or in any defined portion of the parish, in any one financial year shall not exceed one halfpenny or shall not exceed three farthings in the £, but such limitation if fixed at one halfpenny may subsequently be raised to three farthings, or altogether removed, or where it is for the time being fixed at three farthings may be removed; but no rate or addition to a rate is to be levied for any one financial year to an amount exceeding one penny in the £ (s. 2).

Adoption:  
conditions.

County electors were the voters under the Act, and any ten or more voters might address a requisition in writing to the overseers requiring them to ascertain the opinion of the voters in the parish with respect to the question or questions stated in the requisition. On the receipt of such a requisition the overseers were to proceed to ascertain by means of voting papers the opinion of the voters with respect to the question or questions; but the opinion of the voters was not to be ascertained on any question with respect to the limitation of the rate

Mode of  
adoption.

<sup>1</sup> See page 68.

Public Libraries  
Act.  
Mode of  
adoption.

unless it was required by the requisition, or with respect to any limitation of the rate other than the limitations specified in the Act (s. 3).

Any question with respect to—

(a) the adoption of the Act; and

(b) the fixing, raising, and removing of any limitation on the maximum rate; and

(c) the ascertaining of the opinion of the voters with respect to any matter for which their consent is required;

will now have to be submitted to the parochial electors, and their opinion ascertained by a poll taken in manner provided by the Local Government Act, 1894 (s. 7 (2)). The manner of taking the poll will be provided for by Rules framed by the Local Government Board (s. 48 (8)). It is not competent for the Parish Meeting to adopt the Public Libraries Act without a poll, but the procedure for the convening of the Parish Meeting supersedes for the purpose of ascertaining the opinion of the voters, the preliminary machinery of the Act to which reference has been made. The chairman of the Parish Council, or any two parish councillors, or the chairman of the Parish Meeting, or any six parochial electors may at any time convene a parish meeting (Local Government Act, 1894, s. 45 (3)), and it would be for the chairman of the Parish Council or any other convener or conveners to give not less than fourteen days' public notice of the intended meeting, and the business to be transacted at the meeting, and to sign such notice (Sched. 1, Part 1, Rules (2) and (3)). If the notice with respect to the adoption of the Public Libraries Act does not raise any question as to the limitation of the rate, the opinion of the voters will not be taken on that question, and the maximum rate of one penny in the pound will be leviable. Where the opinion of the parochial electors is taken upon the question as to the adoption of the Act, or upon a question as to the limitation of the rate, no further proceeding can be taken for ascertaining the opinion of the electors until the expiration of one year at least from the day of the poll. (Questions submitted to the parochial electors are to be decided by a majority of answers recorded on the valid voting papers (55 & 56 Vict. c. 53, s. 3).

Commissioners  
where no  
Parish Council

Where the Act is adopted for a rural parish without a Parish Council, the Parish Meeting must forthwith appoint not less than three nor more than nine voters in the parish to be Commissioners for carrying the Act into execution (s. 5 (1)). One-third of the Commissioners retire each year, and their place is filled by an annual appointment. Casual vacancies in the office of Commissioner are as soon as may be to be filled up by the Parish Meeting (s. 6). The Commissioners are required to meet at least once a month; two Commissioners constitute a quorum (s. 7).

They are a body corporate by the name of "the Commissioners for Public Libraries and Museums for the Parish of ————, in the

County of ———," and can acquire and hold lands for the purposes of the Acts without any licence in mortmain (s. 5 (2)).

Public Libraries  
Act.  
—

Several provisions which have not hitherto been much acted upon, authorise the combination of neighbouring Library Districts for the purpose of the Act.

Combination of  
districts.

Where the Act is adopted for any two or more neighbouring parishes, the respective Parish Councils, or Parish Meetings in parishes without a Parish Council, may by agreement combine for any period in carrying the Act into execution, and the expenses are to be defrayed by the parishes in such proportions as may be agreed on (s. 9 (1)). In the case of two or more Parish Councils a joint committee of the Councils concerned would execute the Act (Local Government Act, 1894, s. 57); and in the case of two or more parishes without a Parish Council not more than six Commissioners would have to be appointed by the Parish Meeting of each parish to form one body of Commissioners for the purposes of the Act (55 & 56 Vict. c. 53, s. 9 (2)). But where all the combining parishes were not parishes with Parish Councils, or were not parishes without Parish Councils, there would be some difficulty in constituting a governing body, but the difficulty might be got over by an application of the Parish Meeting to the County Council to confer on that Meeting the power of a Parish Council to appoint members of a Joint Committee (Local Government Act, 1894, s. 57). Section 10 of the Public Libraries Act, 1892, contains a further provision enabling a parish adjoining or near any Library District, for which either the Act has been adopted or its adoption is contemplated, to be annexed to that district, subject to the consent of the library authority. The consent of the voters of the parish is necessary to the parish being annexed to the adjoining district, and this consent must be ascertained by a poll of the parochial electors on the subject. The library authorities for any two or more parishes for which the Act has been adopted may also with the consent of the voters (ascertained by a poll of the parochial electors) in each parish agree to share for any period the cost of the purchase, erection, repair, and maintenance of any library, building, museum, school for science, art gallery, or school for art, situate in one of the parishes, and also the cost of the purchase of books and newspapers and other expenses. With the like consent of the voters, and the consent of the Charity Commissioners, a library authority may make a similar agreement with the governing body of any library established or maintained out of funds subject to the jurisdiction of the Charity Commissioners, and situate in or near the parish, and, in case of inability, objection, or failure on the part of the governing body to enter into such agreement, the Charity Commissioners may, if they think fit, become party to the agreement on behalf of the governing body (s. 16).

The library authority (*i.e.*, the Parish Council or the Commissioners

**Public Libraries Act.**

**Provision of libraries, museums, &c.**

for Public Libraries and Museums, as the case may be) may provide all or any of the following institutions, namely, public libraries, public museums, schools for science, art galleries, and schools for art, and for that purpose may purchase and hire land, and erect, take down, rebuild, alter, repair and extend buildings, and fit up, furnish, and supply the same with all requisite furniture, fittings, and conveniences. No charge is to be made for admission to a library or museum, or for the use of a lending library by the inhabitants of the parish; but the library authority, if they think fit, may grant the use of a lending library to other persons, either gratuitously or for payment (s. 11). Books, newspapers, maps, and specimens of art and science may be provided and repaired when necessary.

**Appointment of officers.**

A library authority may appoint salaried officers and servants, and make regulations<sup>1</sup> for the safety and use of every library, museum, gallery, and school under their control, and for the admission of the public thereto (s. 15). They may accept a parliamentary grant upon conditions prescribed by the Department of Science and Art towards the purchase of the site, or the erection, enlargement, or repair, of any school for science and art, or school for science, or school for art, or of the residence of a teacher in any such school, or towards the furnishing of any such school (s. 17).

**Parliamentary grant.****Purchase of land by agreement.**

For the purpose of the purchase of land under the Act by a library authority the Lands Clauses Acts, with the exception of the provisions relating to the purchase of land otherwise than by agreement, are incorporated with the Public Libraries Act, 1892 (s. 12 (1)), and that Act confers no power of compulsory purchase. Where therefore the library authority are Commissioners appointed by the Parish Meeting, land for the purposes of the Act may be purchased only by agreement, but where the authority are the Parish Council that Council may acquire land compulsorily under section 9 of the Local Government Act, 1894, for the purpose of public libraries and museums.

**Compulsory purchase by Parish Council.**

**Grant of ecclesiastical, parish and other lands.**

But in other ways the grant of land for the purpose of the Public Libraries Act, 1892, has been specially favoured by the Legislature. Any person holding land for ecclesiastical, parochial, or charitable purposes may grant, or convey, by way of gift, sale, or exchange, for any of the purposes of the Act any quantity, not exceeding in any one case one acre of such land; but the grant or conveyance of ecclesiastical property requires the consent of the Ecclesiastical Commissioners, and of parochial property (which must be granted or conveyed by the Board of Guardians of the poor law union comprising the parish to which the property belongs),<sup>2</sup> the consent of the Local

<sup>1</sup> See page 181 as to regulations being continued in force on transfer of powers taking place.

<sup>2</sup> No such action on the part of the guardians would be required for the sale or exchange of parochial property vested in a Parish Council (see page 55). If that Council, being the library authority, wished to appropriate any parochial property for the purpose of the Public Libraries Act, they could apparently do so without the intervention of the guardians.

Government Board, and of other charitable property, the consent of the Charity Commissioners (s. 13). Public Libraries Act.  
—

A library authority may borrow for the purposes of the Act, but the sanction or consent of the Parish Meeting is necessary (s. 19). A Parish Council executing the Public Libraries Act, would borrow under the provisions of the Local Government Act.<sup>1</sup> Borrowing.

The expenses of executing the Act in a parish are defrayed out of a rate raised with and as part of the poor rate, subject to the qualification, that every person assessed to the poor rate in respect of lands used as arable, meadow, or pasture ground only, or as woodlands or market gardens, or nursery grounds, is entitled to an allowance of two-thirds of the sum assessed upon him in respect of those lands (s. 18 (1)). Expenses.

In a parish not combined with any other parish the amount to be raised out of the rate requires the sanction of the Parish Meeting. The amount proposed to be raised must be expressed in the notice convening the meeting, and where the Act is executed by Commissioners the amount is to be paid according to the order of the Parish Meeting to the person appointed by the Commissioners to receive it. In the notices requiring the payment of the rate the proportion which the amount to be raised for the purposes of the Act bears to the total amount of the rate must be stated (s. 18 (2)).

No sanction of the Parish Meeting is required for raising the sums due from a parish annexed to any library district for meeting the expenses chargeable to the parish (s. 18 (3)).

The district auditor audits the accounts of the receipts and expenditure under the Act whether the library authority are Commissioners or a Parish Council (55 & 56 Vict. c. 53, s. 20 (2); Local Government Act, 1894, s. 51). Audit of Accounts.

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<sup>1</sup> See page 67.

## CHAPTER VI.

### *Acquisition by Parish Council of Land by Agreement— Compulsory Acquisition by Parish Council and, for purpose of Allotments, by District Council— Hiring for Allotments by Parish Council.*

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#### ACQUISITION OF LAND.

By agreement.

FOR the purpose of the acquisition of land by a Parish Council the Lands Clauses Acts are incorporated with the Local Government Act, 1894, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section 178 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), is to apply as if the Parish Council were referred to therein (s. 9 (1)).

Under this provision the Parish Council will be able to acquire by agreement land for such purposes as they are authorised to acquire land. In connection with the powers and duties of the Parish Council under the Local Government Act, 1894, the Adoptive Acts and other statutes, mention has been made of the various purposes for which land may be acquired by them. They may, for instance, acquire land for building public offices and for recreation grounds (s. 8 (1) (a)), and for the purposes of a supply of water or of a right of way (Local Government Act, 1894, ss. 8 (1) (e) (g), 9 (15)).

Lands Clauses  
Acts.

The Lands Clauses Acts, which comprise the following statutes :—

THE LANDS CLAUSES CONSOLIDATION ACT, 1845 (8 & 9 Vict. c. 18);

THE LANDS CLAUSES CONSOLIDATION ACTS AMENDMENT ACT, 1860 (23 & 24 Vict. c. 106);

THE LANDS CLAUSES CONSOLIDATION ACT, 1869 (32 & 33 Vict. c. 18); and

THE LANDS CLAUSES (UMPIRE) ACT, 1883 (46 & 47 Vict. c. 15); and

Any Acts for the time being in force amending the same, contain provisions which are usually made applicable to the acquisition of lands for undertakings of a public nature. It is beyond the scope of the present work to set out those provisions at length, and it must suffice to say that the provisions of those Acts relating to the purchase of land by agreement are so framed as to meet every kind of difficulty likely to arise in any case where all parties concerned are willing to treat. Ample powers to sell and convey are conferred in the case of infants, lunatics, and other parties under disabilities, and provision is



made for the proper application of the purchase money or compensation. The consideration for the sale and conveyance of lands under the Acts may be either the payment of a gross sum or an annual rent charge. Other provisions deal very fully with the conveyance of lands, the entry upon lands, the enfranchisement of copyholds, the acquisition of common or waste lands and of lands subject to leases, mortgages, and other encumbrances, and subsidiary matters. The provisions of the Acts with respect to the sale of superfluous lands are subject to the provisions of section 11 of the Allotments Act, 1887, which is made to apply to land purchased under section 9 of the Local Government Act, 1894.<sup>1</sup>

Provisions of  
Lands Clauses  
Acts.

Acquisition by  
agreement.

Section 178 of the Public Health Act, 1875, enables lands belonging to the Duchy of Lancaster to be sold and disposed of for such sum as to the Chancellor and Council of the Duchy may appear sufficient consideration. This section is given at page 313 of the Appendix.

If a Parish Council are unable to acquire by agreement, and on reasonable terms suitable land for any purpose (other than for the purpose of any supply of water, or of any right of way, s. 9 (15)), for which they are authorised to acquire it, they may represent the case to the County Council, and the County Council must inquire into the representation (s. 9 (2)).

Compulsory  
acquisition.

If on any such representation, or on any proceeding under the Allotments Acts, 1887 (50 & 51 Vict. c. 48), and 1890 (53 & 54 Vict. c. 65), a County Council are satisfied that suitable land for the purpose of the Parish Council or for the purpose of allotments, including common pasture, where authorised by the County Council, to be acquired under section 12 of the Act of 1887, (as the case may be), cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the County Council in proceeding, they are to cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed by the Local Government Board, and all persons interested are to be permitted to attend at the inquiry, and to support or oppose the taking of the land (s. 9 (3)).

Section 3 of the Allotments Act, 1890, requires every County Council to annually appoint a standing committee not exceeding one-fourth of their own body for the purpose of dealing with petitions and holding local inquiries under that Act. The section, which is reprinted at page 371 of the Appendix, is incorporated with section 9 of the Local Government Act, 1894, and will with adaptations prescribed by the Local Government Board, apply accordingly (Local Government Act, 1894, s. 9 (13)). It will be the duty of a standing committee so

Standing  
Committee of  
County Council.

<sup>1</sup> See page 110.

Compulsory  
acquisition of  
land.

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appointed to take the necessary preliminary proceedings to hold the public inquiry referred to in section 9 (3) of the Local Government Act, and to report the result to the County Council.

Public inquiry.

Before the standing committee of the County Council cause a public inquiry to be made they must satisfy themselves that suitable land cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances justify them in proceeding. It would seem as if what the standing committee, as representing the County Council, are required to be first satisfied about, is the very purpose for which a public inquiry is necessary, but the provision must be taken to mean no more than that before the Committee take action a *prima facie* case must be made out to their satisfaction. A petition to the County Council under the Allotments Act, 1890, to which reference will be presently made, is referred as of course to the standing committee of the Council required to be appointed by that Act, and if that committee is satisfied of the *bona fides* of the application they must forthwith cause a local inquiry into the circumstances to be made (53 & 54 Vict. c. 65, s. 3).

Representation  
under Allotments  
Act, 1887.

On a representation in writing to the District Council by any six registered parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the Council to take proceedings under the Act, the Council are required to take such representation into consideration.

If the District Council are of opinion, either after an inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments and the applicants for the same, the Council, subject to the provisions of the Act, are to purchase or hire suitable land which may be available, whether within or without the district or parish, adequate to provide a sufficient number of allotments, and are to let such land in allotments to persons belonging to the labouring population resident in the district or parish and desiring to take the same (50 & 51 Vict. c. 48, s. 2).

Order for  
compulsory  
purchase.

A District Council who are unable by hiring or purchase by agreement to acquire suitable land sufficient for allotments under the Allotments Act, 1887, at a reasonable price or rent and subject to reasonable conditions, may petition the County Council for an order authorising the compulsory acquisition of land. The order under that Act was provisional only, and had no force until confirmed by Parliament (s. 3). An order of the County Council for compulsory purchase or hiring under the Local Government Act, 1894, will require confirmation

by the Local Government Board, and not by Parliament (Local Government Act, 1894, s. 9 (7)). In the case of a County Borough, the jurisdiction to make an order for compulsory purchase under the Act of 1887, belongs to the Local Government Board by virtue of section 34 (7) of the Local Government Act, 1888. That Board will continue to exercise the jurisdiction, and will both make and confirm the order where the Council of a County Borough petition them under the Local Government Act, 1894 (s. 9 (18)), and the order will not require confirmation by Parliament.

Order for compulsory purchase.

If after a representation has been made under section 2, of the Act of 1887, the District Council other than a Borough Council fail to take proceedings under the Act, any six persons qualified to make such representation may petition the County Council requesting them to put the Act into force for the purpose of providing a sufficient number of allotments for the district or parish (53 & 54 Vict. c. 65, s. 2 (1)). The petition is referred to the standing committee of the County Council appointed under the Act, and if they are satisfied of the *bona fides* of the application, they must cause a local inquiry to be made, and report to the Council (s. 3 (3)). If the County Council are satisfied by the inquiry that the circumstances are such that land for allotments should be acquired, they are to pass a resolution to that effect, and thereupon the powers and duties of the District Council as to allotments are transferred to the County Council.

Petition under Allotments Act, 1890.

A Parish Council are empowered to make a representation to the District Council under section 2 of the Act of 1887 (Local Government Act, 1894, s. 6 (3)), and petition the County Council under section 2 of the Act of 1890 (Local Government Act, 1894, s. 9 (17)).

Proceedings by Parish Council.

The provision in the Local Government Act, 1894, with respect to the compulsory acquisition of land, applies to three classes of cases:—

Compulsory acquisition of land—

- (1) A Parish Council requiring land for any purpose for which they are authorised to acquire land compulsorily.
- (2) A District Council petitioning the County Council, or where applicable, the Local Government Board, for powers of compulsory purchase for the purpose of allotments.
- (3) A County Council requiring powers of compulsory purchase in order to exercise the powers and duties with respect to allotments transferred to them from a defaulting District Council.

By Parish Council;

By District Council;

By County Council.

After completion of the public inquiry, and considering all objections made by any persons interested, the County Council may make an order for putting in force, as respects the land proposed to be taken compulsorily, or any part thereof, the provisions of the Lands Clauses Acts with respect to the compulsory purchase and taking of land (s. 9 (4)).

Order of County Council.

Compulsory  
acquisition of  
land.  
  
Appeal to Local  
Government  
Board.

If the County Council refuse to make any such order, the Parish Council, or if the proceeding is taken on the petition of the District Council, then the District Council may petition the Local Government Board, and that Board after local inquiry may, if they think proper, make the order, and the same provisions are to apply as if the order had been made by the County Council (s. 9 (5)).

The provision for an appeal to the Local Government Board, refers explicitly to the refusal of the County Council to make an order only, but that refusal seems to cover a refusal or neglect to cause public inquiry in the parish to be made with the view of making such an order. If the provisions were not wide enough in this respect the County Council by declining to hold a public inquiry might defeat the object of the provision altogether. The local inquiry to be held by the Local Government Board will be in addition to the public inquiry in the parish which may have been caused to be made by the County Council.

Notices of  
order.

After an order for compulsory purchase has been made by the County Council, or in their default by the Local Government Board, a copy of the order is to be served in the manner prescribed by that Board, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the period prescribed by the Local Government Board a memorial by some person interested is presented to that Board, praying that the order shall not become law without further inquiry (s. 9 (6)).

Confirmation of  
order.

The order itself must be deposited with the Local Government Board, who are to inquire whether the provisions of section 9, and the regulations prescribed by them have been in all respects complied with; and if the Board are satisfied that this has been done, then, after the period prescribed by them—

- (a.) If no memorial has been presented, or if every such memorial has been withdrawn, the Board are required, without further inquiry, to confirm the order:
- (b.) If a memorial has been presented, the Board are to proceed to hold a local inquiry, and are, after such inquiry, either to confirm, with or without amendment, or to disallow the order:
- (c.) Upon any such confirmation the order, and if amended as so amended, becomes final and has the effect of an Act of Parliament, and the confirmation by the Local Government Board is to be conclusive evidence that the requirements of the Act have been complied with, and that the order has been duly made, and is within the powers of the Act (s. 9 (7)).

Confirmed order  
conclusive.

Amendment of  
order.

Where a memorial has been presented against an order and not withdrawn the order may be amended by the Local Government Board before confirmation by them; but where no memorial is presented, or where every such memorial has been withdrawn, the order must be confirmed as it is without any amendment.

Before any order can be made by the County Council there must be a preliminary inquiry by them under subsection 3 of section 9, and if that order is opposed there must be another local inquiry by the Local Government Board under subsection 7 before confirming the order. There will thus be at least two local inquiries in every case before an opposed order is confirmed; and where the County Council have held a preliminary inquiry, but have refused to make an order, and a petition is presented to the Local Government Board, another local inquiry by that Board under subsection 5 will be interposed, and if any order is made by that Board and a memorial presented against the order a third inquiry under subsection 7 will have to be made before their confirmation is given. These safeguards seem more than ample, but it must be remembered that an order once confirmed is final and conclusive under subsection 7, and cannot be challenged on any ground.

Compulsory  
acquisition.  
Local inquiries.

Certain restrictive provisions of the Allotments Act, 1887, are incorporated with section 9, and will with the adaptations prescribed by the Local Government Board apply accordingly (Local Government Act, 1894, s. (9 13)).

Restrictions  
on compulsory  
purchase.

If the land is taken for allotments, subsection 2 of section 2 of the Allotments Act, 1887, is to apply, which prohibits the acquisition of land for allotments save at such price or rent that in the opinion of the acquiring authority all expenses (except such as are incurred in making public roads) in acquiring the land, and otherwise in relation to the allotments, may reasonably be expected to be recouped out of the rents obtained in respect thereof. The subsection, which is reprinted in full in the Appendix, page 357, contains a definition of the expression "reasonable rent."

Whether the land is taken for allotments or not, subsections 5, 6, 7 and 8 of section 3 and section 11 of the same Act are made applicable. These provisions are also reprinted at pages 358 and 360 of the Appendix. Under them the making of an order for purchasing any right to coal or metalliferous ore (s. 3 (8)), or for purchasing any park, garden, pleasure ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal company which is or may be required for the purposes of their undertaking is prohibited, and in making an order for purchasing land, regard must be had to the extent of land held in the neighbourhood by any owner, and to the convenience of other property belonging to the same owner, and so far as is practicable the taking an undue or inconvenient quantity of land from any one owner must be avoided (s. 3 (6)). Persons or bodies corporate authorised to sell land for the purposes of the Act (that is for the purposes of section 9 of the Local Government Act, 1894), may, without prejudice to any other power of leasing, lease land to the Parish Council, without any fine or premium, for a term not exceeding

Leasing.

Compulsory  
acquisition of  
land.

35 years (s. 3 (7)). This subsection is applicable to hiring by agreement only, but section 9 of the Local Government Act, 1894, relates to the purchase and not to the hiring of land. Section 9, however, is made applicable to the hiring of allotments by a Parish Council under section 10 of the Act, and thus subsection 7 of section 3 of the Act of 1887 will apply to the hiring of allotments by the Parish Council, and to other cases in which the Parish Council are empowered to hire land. Section 11 of the Act of 1887 relates to the sale of superfluous or unsuitable land, and its provisions will apply whether that land has been purchased by agreement or compulsorily. It to a considerable extent supersedes the provisions of the Lands Clauses Acts concerning the same matter.

Superfluous land.

Incorporated  
enactments.  
Lands Clauses  
Acts.  
Railways Clauses  
Act.

An order for the purpose of the compulsory purchase of land is to incorporate the Lands Clauses Acts, and sections 77 to 85 of the Railways Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 20), with the necessary adaptations, but any question of disputed compensation is to be dealt with in the manner provided by section 3 of the Allotments Act, 1887,<sup>1</sup> and provisoes (a), (b), and (c) of subsection 4 of that section are incorporated with section 9 of the Local Government Act, 1894, and are to apply accordingly. In determining the amount of disputed compensation, the arbitrator, under section 3 of the Act of 1887, is not to make any additional allowance in respect of the purchase being compulsory (s. 9 (10)).

The order should itself incorporate the enactments referred to, and make what adaptations are necessary in those enactments. The Lands Clauses Acts as a whole are applicable to compulsory purchases of land under the Local Government Act, 1894, but those provisions of the Acts which relate to the purchase of lands by agreement have been referred to previously on page 104, and it is only necessary to refer now to such of the provisions of the Acts relating to purchase otherwise than by agreement as will be applicable to the compulsory acquisition of land under the Local Government Act. To some extent the provisions with respect to the service of notices on persons interested in lands proposed to be taken will be superseded by the notices which will be prescribed under section 9 (3) of the Local Government Act, but it may be observed that the notices under the Lands Clauses Acts are required to demand from the parties interested the particulars of their estate and interest, and of the claims they make in respect thereof (8 & 9 Vict. c. 18, s. 18). Questions of disputed compensation will not be dealt with according to the Acts, but in the manner provided by section 3 of the Allotments Act, 1887, namely, by a single arbitrator appointed by the parties, or, if they do not concur in the appointment of a single arbitrator, then on the application of either of them, by the Local Government Board. An arbitrator so appointed is to be deemed an

Compensation.

Arbitrator.

<sup>1</sup> See page 358 of the Appendix.

arbitrator within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to arbitration will apply. He is not to follow the practice which independently of legal authority has hitherto prevailed of allowing a varying percentage on the actual value of the property compulsorily taken as a compensation over and above that value in respect of the purchase being compulsory. In the case of a person who by reason of absence is prevented from treating, or who cannot after diligent inquiry be found, a practical surveyor may be nominated by two justices to determine the compensation (8 & 9 Vict. c. 8, s. 59). The arbitrator or surveyor is to have regard to the damage caused by severance of the land taken from the other lands of the same owner (s. 63).

Compulsory acquisition.

No allowance for compulsory purchase.

Absent parties.

Severance.

The provisions of the Railway Clauses Consolidation Act, 1845 (*see* page 294), to be incorporated with an order for compulsory purchase relate to the acquisition and working of minerals in lands purchased for railway purposes. Underlying minerals are excepted out of the conveyance of such lands unless the minerals are expressly purchased, or their removal is necessary in the construction of the railway (8 & 9 Vict. c. 20, s. 77). But minerals lying near the railway are not to be worked if the company are willing to purchase them (s. 78). If the company are unwilling to purchase the minerals they may be worked by the owner subject to his repairing any damage to the line (s. 79). Compensation must be made to the owner for the restrictions imposed upon him with respect to the working of the mines lying under or near the railway (s. 81).

Minerals

Sections 293 to 296, and subsections (1) and (2) of section 297 of the Public Health Act, 1875 (38 & 39 Vict. c. 55) are to apply to a local inquiry held by the Local Government Board for the purposes of section 9, as if those sections and subsections were re-enacted, and in terms made applicable to such inquiry<sup>1</sup> (s. 9 (8)).

Proceedings at inquiries.

The person or persons holding a public inquiry for the purposes of the section on behalf of a County Council are to have the same powers as an inspector or inspectors of the Local Government Board when holding a local inquiry; and section 294 of the Public Health Act, 1875, is to apply to the costs of inquiries held by the County Council for the purpose of the section as if the County Council were substituted for the Local Government Board (s. 9 (12)).

The provisions of the Public Health Act, 1875, incorporated by these provisions, are reprinted at page 326 of the Appendix. They relate to inquiries by the Local Government Board for the purposes of the Public Health Act, 1875, and the most important provision is that which gives to the inspector holding the inquiry similar powers to those which poor law inspectors have in relation to witnesses and their examination, the production of papers and accounts, and the

<sup>1</sup> See also the general provisions as to local inquiries, page 204.

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acquisition of  
land.  
—  
Proceedings at  
inquiries.

inspection of places and matters required to be inspected (38 & 39 Vict. c. 55, s. 296). The powers of poor law inspectors in relation to inquiries are conferred by the Poor Law Board Act, 1847 (10 & 11 Vict., c. 109). An inspector may summon any persons to be examined before him upon the matter of the inquiry, or to produce and verify, on oath, any books, contracts, agreements, accounts, writings or copies of the same, in anywise relating to such matter, and not relating to or involving any question of title to lands. No person is to be required, in obedience to a summons of the inspector, to travel more than 10 miles from his place of abode (s. 21).

Costs of inquiries.

The Local Government Board or the County Council, as the case may be, may make orders as to the costs of inquiries, and as to the parties by whom, or the rates out of which the costs are to be borne, and an order may be made a rule of the High Court on the application of any persons named therein (38 & 39 Vict. c. 55, s. 294). These special provisions as to local inquiries for the purpose of the compulsory acquisition of land seem scarcely necessary in view of the general provisions in section 72 of the Local Government Act, 1894, with respect to local inquiries.<sup>1</sup> The general provisions will also be applicable to inquiries under section 9 of the Act, so far as they do not conflict with the special provisions.

Counsel and  
expert witnesses.

At any inquiry or arbitration held under section 9, the person or persons holding the inquiry or arbitration are to hear any authorities or parties interested by themselves or their agents, and to hear witnesses, but are not, except in such cases as may be prescribed by the Local Government Board, to hear counsel or expert witnesses (s. 9 (11)).

Execution of  
order.

An order for compulsory purchase is to be carried into effect, when made on the petition of a District Council, by that Council, and in any other case by the County Council (s. 9 (9)).

When the order is made on the petition of the District Council, it is only reasonable that they should carry it into effect, as they stand in the position of promoters of the undertaking under the Lands Clauses Acts, but the object of requiring the County Council to carry the order into effect in all other cases is not evident, as the land itself is to be conveyed to the Parish Council under subsection (14). It will be the duty of the County Council in the case of compulsory acquisition to carry on all the negotiations until the land is conveyed to the Parish Council, although, when the Parish Council acquire land by agreement under section 9 (1), they will themselves do everything that is necessary.

Conveyance of  
land to Parish  
Council.

Where the land is acquired otherwise than for allotments, it is to be assured (*i.e.*, conveyed) to the Parish Council; and any land

<sup>1</sup> See page 204.



purchased by a County Council for allotments under the Allotments Acts, 1887 and 1890, and the Local Government Act, 1894, or any of them, is to be assured to the Parish Council, and, in that case sections 5 to 8 of the Allotments Act, 1887, are to apply as if the Parish Council were the sanitary authority (s. 9 (14)).

Compulsory  
acquisition.

Section 9 relates only to the compulsory acquisition of land for the purposes of the Parish Council and for allotments, and it follows as a natural consequence that land acquired otherwise than for allotments should be conveyed to the Parish Council, but the provision in subsection (14) is necessary on account of the direction in subsection (9), that the order for compulsory acquisition is to be carried into effect by the County Council. Not only land acquired for the Parish Council is to be conveyed to them, but also any land purchased by the County Council for allotments is to be conveyed to the Parish Council. A Parish Council is not authorised to purchase land for allotments, but, under this provision, they will acquire such land as has been already purchased or will in future be purchased for allotments by the County Council. The effect of the provision is to supersede the powers of the County Council, conferred by section 3 of the Act of 1890, to delegate or transfer their powers under the Act to the defaulting District Council. Although the land will be conveyed to the Parish Council, the responsibilities of the defaulting District Council under the Act of 1890 will remain unaffected. Sections 5 to 8 of the Act of 1887, which will be applicable to the land for allotments assured to the Parish Council, confer full powers for the improvement and adaptation of land for allotments and for the management of the allotments. The sections are reprinted in the Appendix, pages 358 to 360.

For purposes  
of Parish  
Council and for  
allotments.

The expenses of a County Council incurred under section 9 are to be defrayed in like manner as in the case of a local inquiry by a County Council under the Act (s. 9 (19)).

Expenses of  
County Council.

Subsection (12) of section 9, to which reference has been previously made, empowers the County Council to make orders as to the costs of a local inquiry held by them for the purpose of the section, and the provision in subsection (19) directs how expenses, other than such as may be dealt with in orders as to costs under subsection (12), are to be defrayed. The expenses of local inquiries generally are dealt with in section 72, but the effect of the reference in section 9 (19) is very obscure. Where a County Council hold a local inquiry on the application of a Council, or of any inhabitants of a District or Parish, the expenses are to be paid by the Council of that Parish or District, or in the case of a parish which has not a Parish Council, by the Parish Meeting, but, subject to this, the expenses are to be paid out of the county fund (s. 72 (4)). The County Council do not hold inquiries under section 9 on the application of a Council, or of any inhabitants of a District or Parish, although inquiries under

Compulsory  
acquisition  
of land.

that section are incidental to the representations or petitions which may be made to the Council, and it seems doubtful if any but the second alternative in section 72 (4) is applicable to the general proceedings of the County Council under section 9. If that is so, their expenses generally must be paid out of the county fund.

Application of  
section to Allot-  
ments Act, 1890.

Where, under the Allotments Act, 1890, the Allotments Act, 1887, applies to the purchase of land by the County Council, that Act is to apply as amended by section 9 of the Local Government Act, 1894 (s. 9 (17)).

This provision in effect, requires that the provisions of section 9 of the Act of 1894 and not those of the Act of 1887 relating to the acquisition of land shall, in future, be acted upon by the County Council in every case where they acquire land for allotments.

#### HIRING FOR ALLOTMENTS.

Voluntary and  
compulsory  
hiring.

A Parish Council are empowered to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they are to represent the case to the County Council, and the County Council may make an order authorising the Parish Council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-five years, such land in or near the parish as is specified in the order. The order is, as respects confirmation and otherwise, to be subject to the like provisions as if it were an order of the County Council made under section 9, and that section is to apply as if it were re-enacted with the substitution of "hiring" for "purchase" and with the other necessary modifications (s. 10 (1)).

The Local Government Act, 1894, contemplates that where land is to be purchased for allotments, the Rural District Council should under ordinary circumstances acquire the land. When allotments have been provided by a Rural District Council for a parish, they may practically be placed under the control of the Parish Council by that council applying for the election of allotment managers.<sup>1</sup>

Land purchased in default of the Rural District Council by the County Council for allotments, will, under the Act, be conveyed to the Parish Council, and entrusted to their management.

A District Council can obtain powers to purchase land compulsorily for allotments, but their powers as to hiring can be exercised by agreement only.

It is probable that in many rural parishes, the very effective powers of hiring conferred on the Parish Council by the new Act, will be relied upon where allotments are required, in preference to invoking the aid of the Rural District Council. No intervention of any other authority will be necessary where the Parish Council hire by agree-

<sup>1</sup> See page 58.

ment, and the fact that they may by an order of the County Council, be empowered to hire compulsorily, will often smooth the way for voluntary hiring. In a case where hiring by agreement is found impossible, the Parish Council may make a representation to the County Council for an order authorising compulsory hiring.

Hiring for allotments.

Before a District Council can purchase or hire land for allotments, they must be of opinion that there is a demand for allotments for the labouring population, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of lands suitable for such allotments and the applicants for the same, and when they have acquired land, they can let the allotments only to persons belonging to the labouring population resident in the district or parish for which the allotments are provided (50 & 51 Vict. c. 48, s. 2); but no such conditions have to be observed when a Parish Council hire land for allotments. The only condition laid down by the Local Government Act in connection with the hiring of land for allotments is that, where a Parish Council are unable to hire by agreement on reasonable terms suitable land for allotments, and seek powers of compulsory hiring, they must first be "satisfied that allotments are required."

Preliminary condition before land can be acquired for allotments.

An order of the County Council for compulsory hiring will be subject to the same procedure as is required for an order of compulsory purchase under section 9. A local inquiry by the standing committee of the County Council will be necessary before the order is made; and another local inquiry will be required before the Local Government Board can confirm the order, if a memorial is presented to them against the order. There will be an appeal to the Local Government Board where the County Council refuse to make an order. The County Council will carry into effect any order of compulsory hiring. Section 10 contains further provisions specially applicable to hiring for allotments which demand attention.

Order for compulsory hiring.

The order for compulsory hiring may apply, with the adaptations prescribed by the Local Government Board, such of the provisions of the Land Clauses Acts (including those relating to the acquisition of land otherwise than by agreement) as appear to the County Council or Local Government Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the Parish Council (s. 10 (8)).

Land-Clauses Acts.

The provisions of the Lands Clauses Acts have been referred to, in connection with section 9, on pages 104 and 110. It will rest with the County Council making the order, or, where the order is made by the Local Government Board, with that Board to determine by the order what adapted provisions shall apply to the particular hiring.

Nothing in section 10 is to authorise the compulsory hiring of any mines or minerals, or confer any right to take, sell, or carry away any gravel, sand, or clay, or authorise the hiring of any land which is

Saving for minerals and small holdings.

Hiring for  
Allotments.

—  
Saving as to  
Minerals and  
Small Holdings.

already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892 (55 & 56 Vict. c. 31) (Local Government Act, 1894, s. 10 (9)).

“ Small  
Holdings,”  
Definition of.

“Small holding,” for the purposes of the Small Holdings Act, 1892, means land acquired by a County Council under the powers and for the purposes of the Act, and which exceeds one acre, and either does not exceed fifty acres, or, if exceeding fifty acres, is of an annual value for the purposes of the income tax not exceeding £50 (55 & 56 Vict. c. 31, s. 1 (2)). This is the general meaning of the expression “small holding” throughout the Act of 1892, and it applies only to land acquired by a County Council, but in section 17 of the Act the expression “small holding” is used in connection with a holding which a tenant has agreed to purchase from his landlord. That section enables the County Council to make an advance to the tenant on the security of the holding to an amount not exceeding four-fifths of the purchase money. It seems agreeable to the spirit of the provision in section 10 (9) of the Local Government Act, 1894, that a small holding of the size and value mentioned in section 16 of the Act of 1892, is not to be hired compulsorily, whether or not it is a holding to which the provisions of that Act have been applied.

Resumption of  
possession to  
work minerals.

If the land hired under section 10 is at any time during the tenancy of the Parish Council shown to the satisfaction of the County Council to be required by the landlord (that is, the person for the time being entitled to receive the rent of the land so hired) for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or work to be used in connection with such working or getting, the landlord may resume possession upon giving to the Parish Council twelve calendar months previous notice in writing of his intention so to do, and upon such resumption he must pay to the Parish Council and to the allotment holders such sum by way of compensation for the loss of the land for the purposes of allotments as may be agreed upon by him and the Parish Council, or in default of agreement as may be awarded by a single arbitrator to be appointed in accordance with the provisions of section 3 of the Allotments Act, 1887, and the provisions of that section are to apply to such arbitrator (Local Government Act, 1894, s. 10 (10)).

This provision is not restricted to land hired compulsorily, and it apparently gives to the landlord an absolute right to resume possession where he requires the land to work minerals, notwithstanding the terms of any agreement he may have made with the Parish Council to the contrary, subject to his compensating the Parish Council and allotment holders for disturbance of the possession of the land.

Arbitration.

A single arbitrator, appointed in accordance with the provisions of section three of the Allotments Act, 1887, and to whom the provisions

of that section are to apply, is empowered to determine any question—

- (a) as to the terms and conditions of the hiring ; or
  - (b) as to the amount of compensation for severance ; or
  - (c) as to the compensation to any tenant upon the determination of his tenancy ; or
  - (d) as to the apportionment of the rent between the land taken by the Parish Council and the land not taken from the tenant ; or
  - (e) as to any other matter incidental to the hiring of the land by the Council, or the surrender thereof at the end of their tenancy ;
- but the arbitrator in fixing the rent is not to make any addition in respect of compulsory hiring (s. 10 (2)).

Hiring for  
Allotments.  
—  
Arbitration.

The arbitrator, in fixing rent or other compensation, is to take into consideration all the circumstances connected with the land, and the use to which it might otherwise be put by the owner during the term of hiring, and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the Parish Council (s. 10 (3)).

Compensation for  
depreciation by  
adjustment of  
rent.

Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the Parish Council is, as far as possible, to be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the Parish Council for the land hired by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not hired by the Parish Council (s. 10 (4)).

Under the Act, land may be compulsorily hired by the Parish Council for allotments, although existing tenants are disturbed by such hiring. Compensation is to be made to the tenant upon the determination of his tenancy, but, in order to lessen as far as practicable, the necessity for a Parish Council paying out money other than rent for the hiring of land for allotments, the compensation awarded to a tenant, who retains possession of part of his holding for any depreciation of value to him of that part by reason of a portion of his holding being taken by the Parish Council, is to be provided for by increasing the rent payable by the Parish Council, and decreasing the rent payable for the part of the holding retained by the tenant. This method of adjustment seems inapplicable where the tenant has no agreement or lease, as he might by subsequent action of the landlord in raising his rent be deprived of the benefit awarded to him by the arbitrator.

The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of the land taken by the Parish Council, must be deposited and preserved with the public books, writings, and papers of the parish, and the owner for the time being of the land, is at all reasonable times to be at liberty to inspect and to take copies of the same (s. 10 (5)).

Report of  
Arbitrator.

Hiring for  
Allotments.

Report of  
arbitrator.

This provision will afford evidence on which to base the amount of compensation due under subsection (7), on the determination of any tenancy created by compulsory hiring. The custody of the public books, writings, and papers of the parish has been previously dealt with on page 70.

Compensation on  
determination  
of tenancy.

On the determination of any tenancy created by compulsory hiring a single arbitrator appointed in accordance with the provisions of section 3 of the Allotments Act, 1887, is empowered to determine as to the amount due by the landlord for compensation for improvements, or by the Parish Council for depreciation, and such compensation is to be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883 (46 & 47 Vict. c. 61), (Local Government Act, 1894, s. 10 (7)).

Where the tenancy is created by voluntary hiring, the provisions of the Agricultural Holdings (England) Act, 1883, would apply on the determination of the tenancy. In case of difference as to the amount and mode and time of payment of compensation, the difference is to be settled by a referee or by two referees and an umpire (46 & 47 Vict. c. 61, ss. 8, 9). In the case of a compulsory hiring, a single arbitrator appointed as provided above, will determine the amount due by the landlord for compensation for improvements, or by the Parish Council for depreciation. The Act of 1883 does not provide for depreciation except as a set-off by the landlord against a claim for compensation (46 & 47 Vict. c. 61, s. 7), but compensation is by section 10 (7) of the Local Government Act, 1894, to be assessed according to the Act of 1883. There are three classes of improvements mentioned in the first schedule of 46 & 47 Vict. c. 61, for which compensation may be claimed subject to the observance of the conditions required. Part I of the Schedule enumerates improvements to which the consent of the landlord is required before the improvement is made; they consist of permanent works, such as laying down permanent pasture, making fences, planting orchards, &c. Part II mentions only one improvement, namely, drainage, in respect of which notice to the landlord is required before the work is done. Part III enumerates improvements to which the consent of the landlord is not required; they are the application of manure and other ameliorators of the soil, such as lime, clay, &c.

Management of  
allotments.

Sections 5 to 8 of the Allotments Act, 1887, are to apply to any allotment hired by a Parish Council in like manner as if that Council were the sanitary authority and also the allotment managers, subject to the following provisions:—

The Parish Council—

Size.

- (a) may let to one person an allotment or allotments exceeding one acre, but, if the land is hired compulsorily, not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture; and

(b) may permit to be erected on the allotment any stable, cow-house, or barn ; and

(c) shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord (s. 10 (6)).

The same sections are made applicable to land acquired for allotments, and assured to the Parish Council under section 9 (14) ; but in the case of land hired by a Parish Council the provisions of these sections will be modified as stated above. The sections, of which the text is given at pages 358 to 360 of the Appendix, confer full powers for the improvement and adaptation of land for allotments, and for the management of the allotments. By section 7 of the Allotments Act, 1887, one person is not permitted to hold any allotment or allotments acquired under that Act exceeding one acre, and no building other than a toolhouse, shed, greenhouse, fowl house, or pigstye is to be erected on any part of any allotment. If any such other building is erected, the District Council must forthwith pull it down, and sell and dispose of the materials.

In the case of land hired by a Parish Council for allotments the restriction as to the area let to one person is removed altogether where the hiring is by agreement, and is relaxed to the extent mentioned in section 10 (6) of the Local Government Act, 1894, where the hiring is compulsory. Whether the hiring is by agreement or compulsory, the Parish Council may permit the erection of a stable, cowhouse, or barn. The power of the Parish Council to deal with the land in the manner indicated in section 10 (6) might, however, be modified by the express terms of a hiring by agreement. The enactment, so far as it is permissive, simply removes or modifies statutory restrictions, and confers no absolute right on the Parish Council, irrespective of obligations which they may have voluntarily incurred to the person from whom the land has been hired. There is no definition, for the purpose of the assent in writing of the landlord for the breaking up of permanent pasture, of the expression "landlord," but it no doubt means the person entitled to receive the rent, as in subsection 10.

A report of any proceedings under sections 9 and 10 is required to be annually laid before Parliament by the Local Government Board (s. 10 (11)), and that Board are also to lay before Parliament any order made by them under section 9, overruling the decision of the County Council not to make an order for the compulsory acquisition of land (s. 9 (5)).

Hiring for  
Allotments.

Buildings.  
Pasture.

Report to  
Parliament of  
proceedings  
under sections  
9 and 10.

## CHAPTER VII.

### *Constitution, Term of Office and Proceedings of Boards of Guardians and District Councils—Place of Meeting—Committees of Parish and District Councils—London Vestries and District Boards.*

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Qualification and election.

A THOROUGH revolution is effected by the Local Government Act, 1894, in the qualification of electors, the mode of election, and the qualification of members of Boards of Guardians and of the new District Councils (other than Town Councils) in whom are merged Urban and Rural Sanitary Authorities.<sup>1</sup>

No ex-officio members.

With the exception of two authorities there will be no ex-officio or nominated members of any of these authorities (Local Government Act, 1894, ss. 20 (1), 23 (1)).

Two exceptions. Oxford.

In the City of Oxford, the Corporation of the Guardians remains as constituted under their local Act, and only those members who are elected by the ratepayers of parishes will be elected under and subject to the provisions of the new Act (s. 60 (6)). The ex-officio and other members who represent the University and colleges will be unaffected by the Act.

Aldershot.

Nothing in the Act is to affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot, 1857 (20 & 21 Vict. c. 22), or the position of persons nominated under those powers (s. 59 (6)). The Home Secretary under this provision nominates three members of the Urban District Council of Aldershot.

#### BOARDS OF GUARDIANS.

Subject to the retention of their privileges by the University of Oxford, the provisions relating to guardians apply to every Board of Guardians<sup>2</sup> throughout the kingdom, including Guardians of Unions within the Administrative County of London and County Boroughs (s. 30), whether constituted under the general law or under a local Act.

Guardians under local Acts.

Where under any local and personal Act guardians are elected for districts, whether called by that name or not, the provisions of the

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<sup>1</sup> See Introduction pages 4 and 5 as to the former provisions relating to the election and constitution of Boards of Guardians and Urban and Rural Sanitary Authorities.

<sup>2</sup> See the definition of "Board of Guardians," page 8.



Act with respect to the election of guardians apply as if each of the districts were a parish (s. 60 (4)).

Boards of  
Guardians.

The parochial electors<sup>1</sup> of a parish are the electors of the guardians for the parish, and if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward are such of the parochial electors as are registered in respect of qualifications within the ward (s. 20 (3)).

Electors

Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected (s. 20 (7)).

One man one vote

The election<sup>2</sup> is to be, subject to the provisions of the Act, conducted according to Rules framed by the Local Government Board (s. 20 (5)).

Mode of election

No person is qualified<sup>3</sup> to be elected or to be a guardian unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the nomination (s. 75 (2)) resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person is to be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public, general, or local and personal Act, as relates to the qualification of a guardian is repealed (s. 20 (2)).

Qualifications of  
guardians.

The wording of this provision is not so clear as it might be with respect to the third qualification mentioned, but there is no sufficient ground for holding that in the case of a guardian for a parish, wholly or partly within a borough, the qualification prescribed is exclusive of the other two qualifications. It is simply an additional alternative. A person may, therefore, be elected and be a guardian—

- (1) If he is a parochial elector of some parish within the union ;  
or
- (2) If he has during the whole of the twelve months preceding the election resided<sup>4</sup> in the union ; or
- (3) If in the case of a guardian for a parish wholly or partly situate within the area of a borough he is qualified to be elected a councillor for that borough.

The expression "parochial elector," when used with reference to a parish in an urban district, or in the county of London, or any county borough, means any person who would be a parochial elector of the

Position of  
women.

<sup>1</sup> See page 206.

<sup>2</sup> As to elections under the Act, see Chapter XII.

<sup>3</sup> As to the disqualifications for office, see page 217.

<sup>4</sup> As to what constitutes "residence," see page 29.

Boards of  
GuardiansPosition of  
women.

parish if it were a rural parish (s. 75 (2)), and a married woman may be registered as a parochial elector under section 43, whether a parish is in a borough or not. A *feme sole* may also be a parochial elector, as she may be on the Local Government Register of Electors. If registered as a parochial elector, a woman, whether married or single, may be elected a guardian. She is also qualified if she has resided for the specified time in the union. But in the case of the third alternative qualification for a guardian of a parish wholly or partly in a borough, namely, the being qualified to be elected a councillor for that borough, the position of a woman under the Local Government Act is not at all satisfactory. The Act expressly provides that no person shall be disqualified by sex or marriage for being elected or being a guardian, whilst it makes no provision for placing a woman in the non-resident list of persons qualified to be elected councillors of the borough. That list comprises those persons, who being occupiers of property within the borough, and having been rated and paid rates for the qualifying period, reside more than seven miles and within fifteen of the borough. They are not entitled to be enrolled as burgesses because they reside more than seven miles from the borough, but they are qualified to be elected councillors, if their names are entered in the separate non-resident list, which is subject to revision in the same manner as the burgess list. Women cannot be placed in the list, as they are not qualified to be elected councillors of a borough; and under the Local Government Act, in spite of the provision removing the disqualification of sex and coverture they cannot apparently be elected guardians for a parish wholly or partly in a borough, if they rely on the fact that if men they would be entitled to be placed upon the non-resident list. This is a defect in the Act, but any other conclusion is only possible by a straining of its language. A woman to be elected as a guardian, whether for a parish within or without a borough, must rely on one of the first two alternative qualifications, namely, that she is a parochial elector or a resident in the union.

## Clergymen.

A person in holy orders, or the regular minister of a dissenting congregation, cannot be qualified under the third alternative, as he is disqualified for being elected or for being a councillor of a borough [Municipal Corporations Act, 1882, (45 & 46 Vict. c. 50) s. 12].

Term of office  
and retirement

Ordinarily the term of office of a Guardian will be three years, and one-third, as nearly as may be, of every Board of Guardians will go out of office on the 15th day of April in each year, and their places be filled by the newly-elected guardians; but

- (a) Where the County Council on the application of the Board of Guardians consider that it would be expedient to provide for the simultaneous retirement of the whole of the Board, they may direct that the members shall retire together on the 15th of April in every third year, and the order will have full effect,

and where a Union is in more than one county, an order may be made by a joint committee of the Councils of those counties ; and

- (b) Where at the passing of the Act the whole of the guardians of any Union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they are to continue so to retire, unless the County Council, or a joint committee of the County Councils, on the application of the Board of Guardians or of any District Council of a district wholly or partially within the Union, otherwise direct (s. 20 (6)).

These provisions as to the term of office of Guardians effect an important change in many Unions. For the most part the whole Board of Guardians have hitherto held office for a year only. Orders of the Local Government Board have in some cases provided for a simultaneous triennial retirement of the whole body of guardians, and in a few instances for the annual retirement of one-third of the guardians. The general rule under the Local Government Act, 1894, is that one-third of the body are to retire each year, subject to the power of the County Council to direct a simultaneous retirement of the whole body in every third year, and subject to the continuance of any similar existing arrangement under an order of the Local Government Board. But the existing arrangement may be altered by the County Council on the application of the Board of Guardians or of any District Council of a district wholly or partly within the Union. In the case of a Union situated wholly or partly in a County Borough, the Council of that Borough will have jurisdiction under section 20 (6).

The jurisdiction of the Local Government Board under the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), and the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), to inquire into the right of any person to act as an elective guardian, and to order a new election in the case of casual vacancies in any Board of Guardians, will cease after the appointed day (Sched. 2).

#### RELATION OF RURAL DISTRICT COUNCIL TO GUARDIANS.

Guardians as such will not be elected under the Act for any parish or other area in a rural district ; but the rural district councillors elected for the parish or other area will be the representatives of that parish or area on the Board of Guardians, and when acting in that capacity are to be deemed to be Guardians of the Poor (s. 24 (3)).

The guardians representing the rural area of the union used to form the Rural Sanitary Authority. Under the new Act, the principal authorities in both rural and urban districts are the District Councils, and members of these authorities will be elected as such. The members of a Rural District Council will represent their parishes or other areas on the Board of Guardians ; whilst, for the urban parishes or areas in the union, Guardians will be separately elected as

Boards of  
Guardians.

Term of office  
and retirement.

Guardians for  
rural parishes  
are elected as  
district  
councillors.

Guardians for  
urban parishes  
or areas are  
elected  
separately.

Constitution of Board of Guardians.

such. Whilst the Act thus makes the constitution of a Board of Guardians for a union dependent, to the extent that the union is rural, upon the elected rural district councillors, it is, on the other hand, so drafted as to make it necessary to refer to the provisions relating to guardians in order to explain the mode of election, term of office, and other matters connected with rural district councillors.

Qualification, &c., of rural councillors.

The provisions of the Act, with respect to the qualification, election, and term of office and retirement of guardians, apply to rural district councillors, and any person qualified to be a guardian for a union comprising the district is qualified to be a district councillor for the district (s. 24 (4)). Under this provision the electors have a very wide choice in the election of persons to fill the the office of rural district councillor, *see* page 121.

Number of rural councillors and guardians.

The number of councillors for each parish or other area in a rural district must necessarily be the same as the number of guardians for that parish or area (s. 24 (2)) to make this scheme practicable.

The number of guardians is, where the general law applies, fixed by the orders of the Poor Law Commissioners and their successors under the Poor Law Acts [Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76), s. 38], and will remain the same under the new Act until any alteration is made in accordance with its provisions; but where a parish is divided by the Act into two or more new parishes,<sup>1</sup> then, subject to any order made by the County Council, there is to be one guardian, and, if it is in a rural district, one district councillor for each of the new parishes (s. 79 (2)).

Parishes divided by Act.

Powers of County Council to alter number of guardians or rural district councillors.

The Council of each County may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which, by the Acts relating to the relief of the poor, are, for the purpose of the election of guardians, vested in the Local Government Board (s. 60 (1)).

Uniting parishes for elections.

The County Council may, under this provision, add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union for the purpose of the election of guardians [Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 6]. As the district councillor elected for a rural area is to represent that area on the Board of Guardians, it is evident that only parishes of the same character must be added to one another. An urban parish should only be added to an urban parish, and a rural parish to a rural parish.

<sup>1</sup> *See* page 10.

Under section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), the County Council may divide any parish into wards for the election of guardians, and determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein; but they have no power to *alter* a ward that has once been formed, whether under this provision or under a local Act.

Powers of  
County Council.  
—  
Wards for  
elections.

The Council of each county may, for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that, as nearly as may be, one-third of the persons elected as guardians for the union, and one-third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire (s. 60 (2)).

Regulation of  
triennial  
retirements.

Although, where the guardians and rural district councillors retire by thirds there will be an election every year in some parts of the union or district, there will not be an election every year for each parish. It will be the duty of the County Council to regulate the retirement of guardians and rural district councillors so as to secure the requisite rotation.

Where a poor law union is situate in more than one county, the power, under section 60, of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and district councillors, is to be exercised by a joint committee of the Councils of the counties concerned,<sup>1</sup> but if any of those Councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed are to act as the joint committee.

Unions in more  
than one county.

If any order of the joint committee is, within six weeks after the making thereof, objected to by any of the County Councils concerned, or by any committee of any of those Councils authorised in that behalf, it is to be of no effect until confirmed by the Local Government Board (s. 60 (3)).

Where the guardians and rural district councillors retire by thirds, one-third, as nearly as may be, of those first elected under the Act, save as hereinafter mentioned, are to continue in office until the 15th of April, 1896, and then retire; and one-third, as nearly as may be, are to continue in office until the 15th of April, 1897, and then retire; and the remainder are to continue in office until the 15th of April, 1898, and then retire (s. 79 (3)).

Retirement of  
first elected  
councillors and  
guardians.

The guardians and rural district councillors to retire respectively in April, 1896, and in April, 1897, are to be the guardians and rural

<sup>1</sup> A joint committee of County Councils is appointed under section 81 of the Local Government Act, 1888 (51 and 52 Vict. c. 41).

Retirement of guardians and district councillors in 1896 and 1897.

district councillors for such parishes, wards, or other areas, as may be determined by the County Council for the purpose of the rotation (s. 79 (4)). Previous mention has been made of the provisions of section 60 which relate to the power of the County Council to regulate the retirement of guardians and of rural district councillors. Under the section a joint committee of the County Councils concerned exercise the power where a union is in more than one county.

Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under the Act are to retire on the 15th of April, 1898 (s. 79 (5)).

County boroughs.

In the case of a union wholly or partly within a county borough, the Town Council of the borough will have jurisdiction under the provisions of sections 60 and 79 above referred to, so far as those sections relate to guardians.

#### SUPPLEMENTARY PROVISIONS AS TO GUARDIANS.

Chairman, vice-chairman and other additional guardians.

A Board of Guardians may elect a chairman or vice-chairman, or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union, and any person so elected will be an additional guardian and member of the Board. On the first election, if a sufficient number of persons who have been ex-officio or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members are to be elected from among those persons (s. 20 (7)). This restriction of choice applies to the first election only.

It is not obligatory on the Board of Guardians to elect these additional members, but, if they exercise the power, they must, on the occasion of the first election, give preference to those ex-officio or nominated guardians who have actually served as guardians and are willing to continue to serve. The chairman and vice-chairman will be elected for one year<sup>1</sup> (Local Government Act, 1894, s. 59 (1) (2); 38 & 39 Vict. c. 55, Schedule 1, Part 1, r. 3), but the other additional guardians will hold office for three years as provided by subsection (6) of section 20 of the Local Government Act, 1894.

#### UNION ASSESSMENT COMMITTEE.

Constitution of committee.

The constitution of the Union Assessment Committee, which the Board of Guardians of every union formed under the Poor Law Amendment Act, 1834, are required by section 2 of the Union Assessment Committee Act, 1862 (25 & 26 Vict. c. 103), to appoint at their first meeting after the annual election of guardians,<sup>2</sup> from among themselves, will be affected by the abolition of ex-officio

<sup>1</sup> See pages 134 and 135.

<sup>2</sup> The Local Government Board have advised Guardians that this committee, should be appointed as usual in 1894. See their circular letter of 3rd of April 1894, printed at page 400 of the Appendix.

guardians. Under the Act of 1862 the committee appointed was to consist of any number not less than six nor more than twelve guardians, and where there was an adequate number of ex-officio guardians one-third at least of the committee was to consist of such ex-officio guardians. The Local Government Act, 1894, repeals the reference to ex-officio guardians, whilst it leaves untouched the provision as to the number of the Assessment Committee (Schd. 2). In future the Committee will consist wholly of elected guardians to the number of not less than six nor more than twelve. It is the duty of the Committee to generally supervise the valuations of rateable hereditaments within the union. The valuation lists are in the first place made by the Overseers, and deposited with the Committee, who hear any objections to the lists, and make any alterations that may be necessary before they finally approve them. An appeal lies to Quarter Sessions against valuation lists.

Assessment committee.

#### SCHOOL ATTENDANCE COMMITTEE

A School Attendance Committee appointed by guardians under section 7 of the Elementary Education Act, 1876 [39 & 40 Vict. c. 79], may consist of from six to twelve elected guardians, as the requirement that one-third at least of the committee shall consist of *ex-officio* guardians, is repealed by the Local Government Act, 1894 (Schedule 2).

Constitution of school attendance committee

#### POWERS OF GUARDIANS

If, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred under the Act, notice in the prescribed form of the appointment of overseers<sup>1</sup> is not received by the guardians within three weeks after the 15th of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, it will be the duty of the guardians to make the appointment or fill the vacancy, and any overseer appointed by the guardians will supersede any overseer previously appointed whose appointment has not been notified (s. 50).

Appointment of overseers.

The powers of the guardians in respect of the sale, exchange, or letting of any parish property, is in a parish having a Parish Council transferred to that Council (s. 6 (1) (d)), and so much of any enactment as authorises the appointment of assistant overseers by a Board of Guardians is repealed as from the appointed day (s. 81 (6)). The power of appointing an assistant overseer is conferred on the Parish Council<sup>2</sup> (s. 5 (1)), or Parish Meeting<sup>3</sup> (s. 19 (5)), as the case may be.

Sale, &c., of parish property.

Appointment of assistant overseers

The Board of Guardians of a union elected in pursuance of the Act will, save as otherwise provided by an order of the Local Government Board made on the application of those guardians, have the same

Powers under local Acts.

<sup>1</sup> See page 40.

<sup>2</sup> See page 39.

<sup>3</sup> See page 25.

Powers of guardians.

powers and duties under any local and personal Act as the existing Board of Guardians (s. 60 (5)).

Local Acts.

Under local Acts, Boards of Guardians sometimes exercise the powers of overseers, or collect the rates, or have other powers not possessed by guardians under the general law. On an application of a Board of Guardians, agreed to by a majority at two successive meetings, the Local Government Board may, by a provisional order which requires the confirmation of Parliament, repeal or alter any of the provisions of such a local Act [Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 2; Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 3].

#### DISTRICT COUNCILS.

Definition of District Council.

In the Local Government Act, 1894, and every other Act, unless the context otherwise requires, the expression "District Council" is to include the Council of every urban district, whether a borough or not, and of every rural district, and the expression "county district" is to include every urban and rural district whether a borough or not (s. 21 (3)). This provision has no application to a county borough (s. 35); and the Council of a county borough will not, except where it may be otherwise provided, be a "District Council," nor will the borough be a "county district."

Change of name.

Any District Council may, with the sanction of the County Council, change their name and the name of their district. The change of name is to be published in such manner as the authority authorising the change may direct, and must be notified to the Local Government Board. The change will not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name (s. 55).

The authority authorising the change of name would be the County Council, and it rests with them to direct the mode of publication. In terms the provision relates to every District Council, and enables the name of a borough to be changed, but it does not seem applicable to a borough.

Provision where failure to elect.

If any District Council, other than a Borough Council, become unable to act, whether from failure to elect or otherwise, the County Council of the county in which the district is situate may order elections to be held, and may appoint persons to form the District Council until the newly elected members come into office (s. 59 (5)).

Where there is a failure to elect guardians, the persons elected on the previous occasion may continue under section 10 of the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), to act as guardians until the next election. But this would be subject to the provision in section 24 (3) of the Local Government Act, 1894, under which persons appointed by the County Council to form a Rural District



Council would be the representatives on the Board of Guardians of the parish or area for which they were appointed rural district councillors.

### RURAL DISTRICT COUNCILS.

For every Rural Sanitary District there is to be a Rural District Council whose district is to be called a Rural District (s. 21 (2)).

Establishment of Rural District Council.

The Rural District Council succeeds under section 25 the Rural Sanitary Authority. Rural district councillors will represent the areas for which they are elected on the Board of Guardians; but otherwise there will be no connection between the new Rural District Councils and the Boards of Guardians and the respective bodies will be entirely independent authorities.

A Rural District Council will consist of a chairman and councillors, and the councillors will be elected by the parishes or other areas for the election of guardians in the district.

Constitution of Council.

The provisions of the Act relating to the number, qualification, election, term of office and retirement of guardians, as shown on pages 121 to 126, apply to rural district councillors. The chairman of the Rural District Council may be elected from outside the councillors (s. 59 (1)).

Where a Rural Sanitary District is on the appointed day situate in more than one Administrative County, such portion of the district as is situate in each administrative county will, save as otherwise provided by or in pursuance of the Local Government Act, 1894, or any other Act, be as from the appointed day a rural district. If the number of councillors of any district so formed will be less than five, the provisions so far as unrepealed, of section 9 of the Public Health Act, 1875, with respect to the nomination of persons to make up the members of a rural authority to five, are to apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the District Council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district will be entitled, so far as regards those affairs, to sit and act as members of that District Council, but a separate account is to be kept of receipts and expenses in respect of the district, and the same are to be credited or charged separately to the district (s. 24 (5)). The provisions of section 9 of the Public Health Act, 1875, referred to, are to apply to the District Council of a rural district to which they applied at the passing of the Local Government Act, 1894 (s. 24 (6)).

Districts in more than one County.

Persons nominated to make up the members of a Rural District Council to five will not be guardians of any union of which the Rural District may form a part.

Under section 36 (1) (i) a Joint Committee of the County Councils

Districts in more than one county.

Powers of County Council.

concerned may, for special reasons, by order direct that the division of a rural district situated in more than one county shall not take place. The order must be made before the appointed day. It will be the duty of the County Council to provide, unless for special reasons they otherwise direct, for uniting every rural district which will have less than five elected councillors to some neighbouring district or districts (s. 36 (1) (iii)). There will be two classes of small rural districts to be dealt with by the County Council – those that now exist, and those which will be created by the division of districts in more than one county. Where the County Council direct that such a small rural district shall not be united with any neighbouring district, the Local Government Board are authorised under the unrepealed provisions of section 9 of the Public Health Act, 1875, from time to time by order to nominate such number of persons as are necessary to make up the number of five councillors. The persons so nominated should be qualified to be rural councillors (s. 20 (2)). Instead of increasing the number of councillors the Local Government Board may, in the case of a small Rural District Council formed by the division under the Act of a district in more than one county, order that the affairs of the district shall be temporarily administered by the undivided District Council, but separate accounts are to be kept in respect of such small district. An arrangement of this character is to be temporary only, and the intention of the provision seems to be that the arrangement should be continued only so long as to allow of the necessary administrative changes being conveniently made for the purpose of absorbing the small district in one or more neighbouring districts.

Officers of divided districts.

Where a rural sanitary district is divided by the Act, any officer for the district will hold his office as such officer for each district formed by the division, and his salary is to be borne by the respective districts in proportion to their rateable value at the commencement of the local financial year next after the passing of the Act (s. 81 (5)), that is on the 1st of April, 1894.<sup>1</sup>

Incorporation of Rural District Council.

Every District Council for a rural district will be a body corporate by the name of the District Council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the County Council direct, and will have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain (s. 24 (7)).

Common seal.

The title of a Rural District Council under this provision is "The Rural District Council for the Rural District of [Battle.]" There may be a doubt as to the name of a new rural district formed by the

<sup>1</sup> See remarks on page 12 as to the similar provision with respect to divided parishes.

division of a rural district in more than one county. Provision is made in section 55 (3) for changing the names of councils and districts where desired.<sup>1</sup>

### URBAN DISTRICT COUNCILS.

Urban Sanitary Authorities are from the appointed day to be called Urban District Councils, and their districts are to be called urban districts ; but the style or title of the Corporation or Council of a Borough is not to be altered by this provision (s. 21 (1)).

Urban Sanitary  
Authorities  
become District  
Councils.

In the case of urban districts the Local Government Act, 1894, establishes no new authorities, although it materially alters the constitution and mode of electing urban authorities other than Town Councils. There will consequently be no break in the continuity of the authorities, and the change of name will not affect the identity of an urban sanitary authority as a corporate body or derogate from their powers, and any enactment, whether in a public, general, or local and personal Act, referring to the members of the authority will, unless inconsistent with the Local Government Act, continue to refer to the members of the authority under its new name. A District Council may, with the sanction of the County Council, change their name and the name of their district<sup>1</sup> (s. 55 (3)).

Change of name.

There is no express provision in the Act with respect to the style which Urban District Councils should assume ; but, following the analogy of Rural District Councils, the name of an Urban District Council should be "The Urban District Council for the Urban District of [Penrith]."

The constitution of and mode of election and retirement of members of Urban District Councils, not being Town Councils, is practically the same as prescribed for Rural District Councils.<sup>2</sup> The Act does not in any way affect the election of Town Councils.

Mode of  
election, &c.

The parochial electors<sup>3</sup> of the parishes in the district are the electors of the councillors, and, if the district is divided into wards, the electors of the councillors for each ward are such of the parochial electors as are registered in respect of qualifications within the ward (s. 23 (3)).

Electors.

Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected (s. 23 (4)).

One man, one  
vote.

The election is to be, subject to the provisions of the Act, conducted according to rules framed by the Local Government Board (s. 23 (5)).<sup>4</sup>

Conduct of  
election.

No person is qualified<sup>5</sup> to be elected or to be a councillor unless he is a parochial elector of a parish within the district, or has during

Qualifications  
of councillors.

<sup>1</sup> See page 128.    <sup>2</sup> See pages 121 to 123.    <sup>3</sup> See page 206.    <sup>4</sup> See page 221.

<sup>5</sup> See page 217 as to the disqualifications for the office of district councillor.

Qualification of Councillor.

the whole of the twelve months preceding the nomination (s. 75 (2) ) resided<sup>1</sup> in the district, and no person is to be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment, whether in a public, general, or local and personal Act, as relates to the qualification of a member of an urban sanitary authority is repealed (s. 23 (2) ).

Two alternative qualifications are prescribed for a councillor of an urban district other than a borough, namely, residence as above described or registration as a parochial elector.

Term of office.

The term of office of a councillor is three years, and one-third, as nearly as may be, of the Council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward, will go out of office on the 15th of April in each year, and their places will be filled by the newly elected councillors ; but a County Council may on request made by a resolution of an Urban District Council, passed by two-thirds of the members voting on the resolution, direct that the members of the Council shall retire together on the 15th of April in every third year, and the order is to have full effect (s. 23 (6) ).

Wards of urban district.

In every part of the district there will be an election of urban councillors in each year. An urban district other than a borough may be divided into wards by an order of the County Council under section 57 of the Local Government Act, 1888<sup>2</sup>. The County Council may also by an order under the same section alter the number of wards or the boundaries of any ward, or the number of members of the District Council, or the apportionment of the members among the wards (51 & 52 Vict. c. 41, s. 57). Where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members will continue and be alterable in like manner as if they had been fixed by an order of the County Council under the Local Government Act, 1894, or any other Act (Local Government Act, 1894, s. 89), but this provision has no application to a borough.

Wards, &c., under local Acts.

Mode of retirement.

Members of local boards now retire in the mode provided by subsection 6 of section 23 of the Local Government Act, 1894, but the provision in that subsection enabling a simultaneous triennial retirement of members to be directed by the County Council is entirely new.

Retirement of first elected councillors.

Subject to an order directing the simultaneous retirement of councillors, one-third as nearly as may be of the urban district councillors first elected under the Act will continue in office until the 15th of April, 1896, and then retire, and one-third as nearly as may

<sup>1</sup> See page 29 as to what constitutes residence.

<sup>2</sup> The section is reprinted at page 363 of the Appendix.

be will continue in office until the 15th of April, 1897, and then retire, and the remainder will continue in office until the 15th of April, 1898, and then retire (s. 79 (3)).

Retirement of first elected councillors.

The urban district councillors who are respectively to retire in 1896 and 1897 are to be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter is to be determined by ballot conducted under the direction of the Urban District Council (s. 79 (6)). The ballot is a ballot of the District Council not of the electors.

In the case of an urban district divided into wards, these provisions with respect to the retirement of the first elected councillors are to apply separately to each ward (s. 79 (7)).

#### CONTINUANCE IN OFFICE OF EXISTING GUARDIANS AND SANITARY AUTHORITIES.

Upon the day on which the first guardians and urban or rural district councillors elected under the Act come into office, the persons who are then members of Boards of Guardians, and Urban and Rural Sanitary Authorities, are to cease to hold office, but until that day the persons who were at the passing of the Act guardians and members of Urban Sanitary Authorities (for urban districts not being boroughs) are to continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections are to be held (s. 79 (8)).

Ordinary election in 1894 not to take place.

The purpose of this provision is to avoid having two elections in 1894, by dispensing with the ordinary election. It continues in office, persons who were guardians and members of Sanitary Authorities at the passing of the Act, namely, 5th March, 1894, although they may cease to be qualified; and the provision appears to apply even to ex-officio and nominated guardians and members of Sanitary Authorities. If a person merely ceases to be *qualified*, as, for example, if he is no longer rated to a sufficient amount, he will nevertheless retain office; but if he becomes actually *disqualified*, as, for example, by bankruptcy, he will not retain office under the provision. The reference to the filling of casual vacancies applies to Boards of Guardians only, but for the purpose both of filling casual vacancies or electing additional guardians before the appointed day, an order of the Local Government Board, under section 11 of the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 57), is necessary. A casual vacancy in a Local Board occurring before the appointed day, should be filled up by the Local Board, under Schedule 2, Part I, r. 65, of the Public Health Act, 1875, within six weeks of its occurrence.

Casual vacancies.

## PROCEEDINGS OF GUARDIANS AND DISTRICT COUNCILS.

Provisions of  
Public Health  
Act, 1875.

Section 199 and Schedule I. of the Public Health Act, 1875 (38 & 39 Vict. c. 55), so far as that Schedule is unrepealed, which relate to the meetings of urban authorities, and to the meetings and proceedings of Local Boards, are to apply in the case of every Urban District Council, other than a Borough Council, and of every Rural District Council and Board of Guardians, as if such District Council or Board were a Local Board, except that the chairman of the Council or Board may be elected from outside the councillors or guardians (s. 59 (1)).

Regulations.

The provisions of the Public Health Act, 1875, referred to, are given in full at pages 314 and 328 of the Appendix. Under them, District Councils and Boards of Guardians will be empowered to make regulations with respect to their proceedings and the transaction of their business (38 & 39 Vict. c. 55, Sched. 1, Part 1, r. 1). The

Quorum.

quorum is one-third of the full number of their members, but in no case is a larger quorum than seven members required (r. 2). The names of the members present, as well as those voting on each question, are to be recorded so as to show whether each vote given was for or against the question (r. 6). This rule precludes voting by ballot. Questions are to be decided by a majority of votes of the

Names of mem-  
ber voting.

Majority decide.

Casting vote of  
chairman.

members present and voting (r. 7), and the chairman has a second or casting vote<sup>1</sup> (r. 8).

Annual and  
monthly meet-  
ings.

An annual meeting as soon as convenient after the 15th of April in each year, and other meetings once at least in each month, must be held (s. 199 and Sched. 1, Part 1, r. 11). At the annual meeting a chairman, who may be elected from outside the councillors or guardians (Local Government Act, 1894, s. 59 (1)), is to be appointed for one year to preside at all meetings at which he is present (38 & 39 Vict. c. 55, Sched. 1, Part 1, r. 3). A casual vacancy in the office of chairman must be filled, and the person appointed will hold office until the period for which his predecessor was appointed expires, and no longer (r. 4). The election of a member of the District Council or Board of Guardians to be chairman will not cause any casual vacancy in the Council or Board, as the offices of member and of chairman are quite compatible.

Chairman.

A Rural District Council consists of a *chairman* and councillors (Local Government Act, 1894, s. 24 (1)), and the chairman, whether elected from among or from outside the councillors, is a member of the Rural District Council, and as such has an original as well as a second or casting vote; but there is no provision constituting a chairman of an Urban District Council who is elected from outside the councillors a member of that Council. A chairman of an Urban District Council elected from outside the councillors will not therefore have an original vote, but he will have a casting vote.

Original vote of  
chairman.

<sup>1</sup> See footnote to page 18.

Any Urban District Council, other than a Borough Council, and any Rural District Council and Board of Guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman will, in the absence, or during the inability of, the chairman, have the powers and authority of the chairman (s. 59 (2)).

Vice-chairman.

A vice-chairman of a Board of Guardians may be appointed from outside the guardians (s. 20 (7)), but there is no authority to appoint the vice-chairman of a District Council from outside the councillors. In the absence of the chairman and vice-chairman, if any be appointed, the councillors or guardians present at a meeting are required to appoint one of their number to act as chairman at that meeting (38 & 39 Vict. c. 55, Sched. 1, Part 1, r. 5).

Temporary chairman.

The first meeting of a District Council elected under the Local Government Act, 1894, will be convened by the returning officer<sup>1</sup> (s. 79 (9)). Any difficulty that arises with respect to the first meeting may be removed by an order of the County Council (s. 80 (1)).

First meeting in 1894.

Nothing in section 59 is to affect any powers of the Local Government Board with respect to the proceedings of Guardians (Local Government Act, 1894, s. 59 (4)).

Saving for powers of Local Government Board.

The general powers of the Local Government Board with respect to the proceedings of guardians are derived from section 15 of the Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76). Under this enactment the Poor Law Commissioners issued their general consolidated order of 24th of July, 1847, which now regulates the proceedings of guardians. So far as the Local Government Act, 1894, deals with the same matters, the provisions of the order are superseded or altered accordingly. A further order was issued to several Unions on the 22nd of March, 1877, by the Local Government Board under section 34 of the Elementary Education Act, 1876 (39 & 40 Vict. c. 79) regulating the proceedings of the guardians under that Act.

The Chairman of a District Council, unless a woman or personally disqualified by any Act, will, by virtue of his office, be justice of the peace for the county in which the District is situate, but before acting as such justice he must, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate (s. 22). Under this provision the mayor of a borough, not being a county borough, becomes a justice for the county in which the borough is situated. He is, under section 155 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), a justice for the borough. Section 22 of the Local Government Act, 1894, does not make the mayor of a county borough an ex-officio justice of the county in which the borough is locally situated, except in the case

Chairman of the Council to be justice.

<sup>1</sup> See page 222.

Proceedings of  
District  
Councils.

Oaths of office  
of justice.

where the borough forms a part of a county for the purpose of justices under section 59 (2) of the Local Government Act, 1888.

The oaths required by law to be taken by a justice other than the oath respecting the qualification by estate are the oath of allegiance and the judicial oath [Promissory Oaths Act, 1868 (71 & 72 Vict. c. 72) s. 6]. The oaths are to be taken before such persons as Her Majesty may from time to time appoint; or before the Lord Chancellor, or in a Division of the High Court in open court before one or more of the judges, or in open court at the general or quarter sessions of the peace for the county [Promissory Oaths Act, 1871 (34 & 35 Vict. c. 48) s. 2]. No person is capable of becoming or being a justice for any county in which he practices and carries on the profession or business of an attorney, solicitor, or proctor (34 Vict. c. 18). The High Sheriff, during his term of office as sheriff, is also disqualified from acting as a justice of the county [Sheriff's Act, 1887 (50 & 51 Vict. c. 55), s. 17]. Other personal disqualifications for holding the office of justice would for the most part also be disqualifications for being a district councillor, as, for instance, bankruptcy and conviction for corrupt practices at Parliamentary and other elections.

Solicitor and  
High Sheriff  
disqualified.

#### PLACE OF MEETING OF DISTRICT COUNCILS AND GUARDIANS.

Licensed pre-  
mises prohibited.

No meeting of a District Council (including a Council of any non-county borough), or of a Board of Guardians, is to be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting, either free of charge or at a reasonable cost (s. 61).

Union board  
room.

Any Rural District Council will be entitled to use for the purpose of their meetings and proceedings the board room and offices of any Board of Guardians for the Union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board (s. 59 (3)).

#### COMMITTEES OF PARISH AND DISTRICT COUNCILS.

Appointment of  
committee.

A Parish or District Council, other than a Town Council, may appoint committees, consisting either wholly or partly of members of the Council, for the exercise of any powers which, in the opinion of the Council, can be properly exercised by committees, but a committee is not to hold office beyond the next annual meeting of the Council, and the acts of every such committee are to be submitted to the Council for their approval. Where a committee is appointed by any such District Council for any of the purposes of the Public Health Acts or Highway Acts, the Council may authorise the committee to institute any proceeding or do any act which the Council might have

Powers.



instituted or done for that purpose, other than the raising of any loan or the making of any rate or contract (s. 56 (1)). A Town Council can appoint committees under section 22 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50). Powers of committees.

Where a Parish Council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the Parish Council must, if required by a Parish Meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the Council and partly of other persons representing the part of the parish (Local Government Act, 1894, s. 56 (2)). This provision applies to a joint committee (s. 57 (5)). Part of Parish.

A Parish or District Council, including a Town Council, may concur with any other Parish or District Council or Councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing Council might exercise if the purpose related exclusively to their own parish or district; but a Council are not to delegate to any such committee any power to borrow money or make any rate. A joint committee so appointed is not to hold office beyond the expiration of fourteen days after the next annual meeting of any of the Councils who appointed it. The costs of a joint committee will be defrayed by the Councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the County Council. Joint committees  
Powers.  
Term of office,  
Costs.  
 Where a Parish Council can under the Act be required to appoint a committee consisting partly of members of the Council and partly of other persons, that requirement may also be made in the case of a joint committee, and must be duly complied with by the Parish Councils concerned at the time of the appointment of the joint committee (s. 57). In the case of a joint committee appointed by a Town Council and a Parish Council or other District Council not being a Town Council, the provision as to period of office of the committee will require the committee to vacate office twice a year, namely, in April and November, as the annual meeting of a Town Council takes place on the 9th of November. Part of parish.

The quorum, proceedings, and place of meeting of a committee, whether within or without the parish or district, and the area (if any) within which the committee are to exercise their authority, are to be such as may be determined by regulations of the Council or Councils appointing the Committee; but, subject to such regulations, the quorum, proceedings, and place of meeting, whether within or Quorum, proceedings, &c.

Proceedings of committees.

without the parish or district, are to be such as the committee direct, and the chairman at any meeting of the committee is to have a second or casting vote<sup>1</sup> (Schedule 1, Part 4).

Committee minutes.

A minute of proceedings at a meeting of a committee of a Parish or District Council, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, is to be received in evidence *without further proof*. Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made is to be deemed to have been duly convened and held, and the committee to have been duly constituted, and to have had power to deal with the matters referred to in the minutes (Schedule 1, Part 3, rr. 2 and 3).

#### LONDON VESTRIES AND DISTRICT BOARDS AND WOOLWICH LOCAL BOARD.

Local Government of London.

The modern system of local government in the Metropolis by Vestries and District Boards under a central authority was established by the Metropolis Management Act, 1855, and remained practically undisturbed until the Metropolitan Board of Works was superseded by the London County Council under the Local Government Act, 1888. Re-arrangements of two or three districts have been made by subsequent statutes, but the mode of election and the qualifications of members of the Vestries and District Boards, and of the electors of those bodies, continued unchanged until the passing of the Local Government Act, 1894. London is a province in itself, and the problem of its local government is not one to be lightly solved. When Mr. Fowler brought in his Local Government Bill he did not propose to touch the Metropolis except so far as Boards of Guardians were concerned, but in committee he moved amendments which applied to the Metropolitan Vestries and District Boards those provisions of the Act which relate to elections and certain subsidiary matters. The Local Board of Woolwich, which is in London for the purpose of the Metropolis Management Acts, were also brought within the same provisions.

Vestries and District Boards.

Under the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), and its amending Acts<sup>2</sup>, the parishes in London, exclusive of the city of London which is governed under ancient charters by the lord mayor, aldermen, and commonalty, are divided into two classes, which

<sup>1</sup> See footnote, page 18.

<sup>2</sup> The amending enactments which affect the arrangements of parishes and districts in London are the Metropolis Management Amendment Act, 1885 (48 & 49 Vict. c. 33), s. 3; the Metropolis Management (Battersea and Westminster) Act, 1887 (50 & 51 Vict. c. 17); and the Metropolis Management (Plumstead and Hackney) Act, 1893 (56 & 57 Vict. c. 55).

are respectively set out in Schedule A and Schedule B of the Act of 1885 as amended by subsequent Acts. The parishes in Schedule A, with the exception of Woolwich, are each governed by a Vestry constituted under the Act, but those in Schedule B are grouped into districts, and each district is governed by a District Board of Works. Each Vestry, constituted under the Act, of a parish in Schedule B elect the number of members fixed under the Act as the representatives of the parish on the Board of Works for the district of which it forms a part. Practically Schedule A now comprises thirty parishes, and Schedule B forty-eight parishes. The latter are grouped into twelve districts.

The powers and duties of the District Boards and of the Vestries of the parishes contained in Schedule A are very nearly the same; the Vestries of the parishes in Schedule B having but unimportant duties beyond that of electing members of the District Boards. The District Boards and the Vestries of the parishes in Schedule A occupy, under the Metropolis Management Acts and the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), a position analogous in many respects to that of an Urban Sanitary Authority; their business comprises drainage, highway maintenance, the appointment of medical officers of health, the removal of nuisances, &c.

Parishes containing more than 2,000 rated inhabitants at the time of the passing of the Act of 1855 were required to be divided into wards not exceeding eight, and each ward was to have not less than 500 rated inhabitants (s. 3). Under section 41 of the Metropolis Management Amendment Act, 1862, (25 & 26 Vict. c. 102) the Metropolitan Board of Works (now the London County Council) were empowered to divide, upon the application in writing of the Vestry, or of not less than 500 rated inhabitants, a parish into wards where the population had, since the passing of the Act of 1855, increased to more than 2,000 rated inhabitants. The London County Council have also, under a local Act of 1893, powers to re-arrange wards, subject to the approval of the Home Secretary [London County Council (General Powers) Act, 1893 (56 & 57 Vict. c. ccxxi), s. 15].

The numbers of vestrymen to be elected are determined according to population by section 2 of the Act of 1855. They are to be not less than eighteen or more than 120 for each parish.

A parishioner was not entitled to vote at an election of vestrymen unless he had been rated to the poor for one year next before the election and had paid all parochial rates, taxes, and assessments due from him at the time of voting except such as had been made or become due within the preceding six months (18 & 19 Vict. c. 120, s. 16), but compound householders were entitled to vote. The election

took place at a meeting summoned by the churchwardens, and if five ratepayers demanded a poll it was taken by ballot on the next day (ss. 13 to 17). There was no plural voting.

Qualification of vestrymen.

Vestrymen were required to be occupiers of houses, lands, tenements, or hereditaments in the parish, rated to the relief of the poor upon a rateable value of not less than £40, except in a parish where the number of poor-rate assessments at £40 or upwards, did not exceed one-sixth of the whole number of such assessments, and then an elected vestryman might be rated upon a rateable value of not less than £25 (18 & 19 Vict. c. 120, s. 6; 19 & 20 Vict. c. 112, s. 8). Auditors of the accounts of the Vestries and District Boards are also required to be elected at the same time and in the same manner as the vestrymen. The same qualification was fixed for the auditors as for the vestrymen (18 & 19 Vict. c. 120, s. 11).

Auditors.

Term of office.

Date of election.

The term of office of vestrymen is three years, and one third of the Vestry retire annually (s. 9). Auditors are elected to serve for one year (s. 12). Elections of vestrymen and auditors take place in May in every year, as the Vestry appoint (s. 7).

Election of District Board.

The Vestry of every parish in Schedule B of the Act of 1855 are directed by section 40 of the 25 & 26 Vict. c. 102 to elect on the first Wednesday in June the requisite number of persons to be members of the Board for the district in which the parish is comprised. The members of the District Board must be qualified by rating and occupation to be elected vestrymen. They hold office for three years, and one-third retire annually (18 & 19 Vict. c. 120, s. 34). A casual vacancy in a district board is to be filled by the vestry with all convenient speed (s. 36).

Ex-officio members of Vestry.

The incumbent and churchwardens of each parish constitute a part of the Vestry, and vote therein, and every district rector, who constituted at the time of the passing of the Act of 1855 a part of the Vestry, also constitutes a part of the Vestry (s. 2).

Chairman of Vestry.

It was only in the absence of the persons authorised by law or custom to take the chair that the members present at a meeting of the Vestry could elect a chairman for the occasion before proceeding to other business (s. 30). The incumbent was, according to custom, the chairman of a Vestry elected under the Act.

Chairman of District Board.

At every meeting of a District Board the members present were required, before proceeding to business, to elect a chairman of the meeting (s. 41).

Casting vote.

The chairman both of a meeting of a Vestry and of a meeting of a District Board of Works has, in case of an equality of votes on any question, a second or casting vote <sup>1</sup> (ss. 30, 41).

<sup>1</sup> See footnote, page 18.

The parish of Woolwich was constituted a district under the Public Health Act, 1848 (11 & 12 Vict. c. 63), by a provisional order confirmed by the 15 & 16 Vict. c. 69. Its Local Board was elected in practically the same manner as other Local Boards under the Public Health Act, 1875, were elected, and the same provisions as to the qualifications of electors and of members of the Local Board were in force. Woolwich.

Section 31 of the Local Government Act, 1894, directs that the provisions of the Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of the Local Board of Woolwich, and the Vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts were urban district councillors. So far as respects the qualification of persons to be elected, the provisions referred to are also to apply as if members of the District Boards under those Acts were urban district councillors; but members of District Boards will continue to be elected in the manner provided by the Metropolis Management Act, 1855. A member of a District Board or of a Vestry, or an auditor, must either be a parochial elector of some parish within the district, or have resided during the whole of the twelve months preceding the day of nomination (s. 75 (2)) in the district. Sex or marriage is not to be a disqualification for being elected or being a member of a Vestry or District Board<sup>1</sup> (s. 23 (2)). The disqualifications<sup>2</sup> imposed by the Act for holding the office of district councillors apply to members of the Local Board of Woolwich, of the Vestries, and of the District Boards, and to the auditors (s. 46 (9)). Application of Act to London elections.

The electors of members of the Vestry and of the auditors will be the "parochial electors," who in London will be those persons who, if the particular parish were a rural parish, would be the parochial electors of that parish. Who are the parochial electors in rural parishes is shown on page 206.

The mode of conducting elections under the Act is explained on pages 222 to 226.

No person is in future to be an *ex-officio* chairman of any of the Vestries elected under the Metropolis Management Acts (Local Government Act, 1894, s. 31 (1)); but the *ex-officio* members of the Vestries will be retained, as the provision of the Act abolishing *ex-officio* members of urban authorities is not made applicable to the London Vestries. This retention of the incumbent and churchwardens, and in some parishes of district rectors, as *ex-officio* members of the Vestry is justified on the ground that the London Vestries have certain duties, powers, and privileges relating to the affairs of the church (25 & 26 Vict. c. 102, s. 3). Chairman and ex-officio members of Vestry.

<sup>1</sup> See page 132.

<sup>2</sup> See page 217.

## Chairman.

The provision under which the incumbent will cease to be *ex-officio* chairman of the Vestry applies to every parish in Schedules A and B of the Metropolis Management Act, 1855, but the following provision requiring the election of a chairman for the year applies only to those Vestries who do not elect members of District Boards. In a parish not under a District Board the members present at a meeting of the Vestry must always elect a chairman for the occasion.

Each of the Vestries, except those electing District Boards, and each of the District Boards and the Local Board of Woolwich, are required at their first meeting after the annual election of members to elect a chairman for the year, and the provisions of the Act with respect to chairmen of Urban District Councils being justices<sup>1</sup> are to apply as if the said Vestries and Boards were Urban District Councils (s. 31 (2)). The respective chairmen will be justices of the county of London. No time is expressly mentioned in subsection (2) of section 31 for the subsection coming into operation, but so far as the Vestries and the Local Board are concerned the subsection cannot apply until after the appointed day, as there will be no annual election of their members in 1894 until November. This is not the case with District Boards, whose members will be elected in the year 1894 on the first Wednesday in June as usual. There is nothing in the enactment, so far as the chairman of a District Board is concerned, to postpone its commencement, and the first chairman for the year should be elected at the first meeting in 1894 of a District Board after the June election. The chairman so elected seems entitled to become at once a justice of London subject to the provisions of section 22 of the Local Government Act, 1894. That section also is not limited as to the time of its commencement, although, of course, there will be no chairman of a District Council before November.

The provisions of section 41 of the Metropolis Management Act, 1855, enabling a District Board to elect a chairman of the meeting, will apply only in the case of the absence of the chairman of the District Board elected under the new Act.

## Meetings of Vestry.

Nothing in any local and personal Act is to prevent any Vestry in the county of London from holding its meeting at such time as may be directed by the Vestry (s. 31 (2) (3)).

## Term of office.

The term of office of a vestryman, and of a member of a District Board or of the Local Board of Woolwich, and of an auditor, is not affected by the new Act, but will continue to be governed by the provisions of the Metropolis Management Act, 1855, to which reference has been previously made. No power is conferred on the London County Council to direct that the whole body of vestrymen, or of members of a District Board, or of the Local Board, should retire simultaneously. See the provision as to this in the case of Urban District Councils, page 132.

<sup>1</sup> See page 135.

The first elections of London vestrymen and auditors and members of the Local Board of Woolwich under the Act, will be held on the 8th of November, 1894, or such later date or dates in 1894 as the Local Government Board may fix<sup>1</sup>, and the persons elected will come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later, as may be fixed by or in pursuance of the rules made by the Local Government Board under the Act in relation to their election (s. 84). Elections in 1894

Persons who, at the passing of the Act, are members of the Woolwich Local Board and of any Vestry under the Metropolis Management Acts, or are auditors under those Acts, are continued in office until the day on which the first members and auditors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of such members and auditors respectively will not take place in 1894. Continuance in office of vestrymen and members of the Woolwich Local Board.

Of the members of the Local Board and Vestries first elected under the Act, the first annual retirement will take place at the date of the annual election in the year 1896. The mode of determining those members who are to retire in 1896 and 1897 is the same as in the case of urban district councillors<sup>2</sup> except that the date of the annual election is to be substituted for the 15th of April (s. 79 (3) (6) (10)). In the case of the Woolwich Local Board the annual election is in April. Retirement of first elected members.

The first meeting of a Vestry elected under the Act and of the Woolwich Local Board will be convened by the returning officer (s. 79 (9)). Any difficulty that arises with respect to the first meeting may be removed by an order of the County Council (s. 80 (1)). First meeting in 1894.

<sup>1</sup> See page 233.

<sup>2</sup> See page 133.

## CHAPTER VIII.

### *Power and duties of District Councils—Transfer of Sanitary and Highway Powers to Rural Councils—Urban and Rural Councils, Additional Powers—Expenses of District Councils—Urban Councils and London Authorities, Power of appointing Overseers and other powers of Parish Council—Scilly Isles.*

THE powers and duties of District Councils under the Local Government Act naturally fall into two groups, namely—the powers and duties of—

I. Rural District Councils.

II. Urban and Rural District Councils.

In the former group, the powers and duties are for the most part transferred powers and duties derived from the Sanitary and Highway Authorities whom the Rural District Council succeed. The latter group comprises new additional powers conferred on both Urban and Rural District Councils, and certain administrative functions transferred from Justices in Petty and Quarter Sessions.

### I.—Rural District Councils.

#### SANITARY POWERS.

A Rural District Council from the appointed day become the successors of the Rural Sanitary Authority in the District and all the powers, duties, and liabilities of the superseded authority are transferred to the Rural District Council (s. 25 (1)). In other words the old Rural Sanitary Authorities are transformed into the new Rural District Councils, who will exercise all the powers and duties of the former authorities under the Public Health Acts and other statutes.

Among the matters with which Rural District Councils deal under the Public Health Acts, are :—Sewerage and Drainage, Scavenging and Cleansing, Water Supply, Regulation of Cellar Dwellings and Lodging-houses, Nuisances, Diseased and Unwholesome Meat and Food, Infectious Diseases, and the provision of Hospitals and Cemeteries. They have also powers under various other Acts, *e.g.* :—The Allotments Acts, The Canal Boats Acts, The Housing of the Working Classes Acts, The Contagious Diseases (Animals) Acts, and the Sale of Food and Drugs Acts.

Transfer of  
powers of Rural  
Sanitary  
Authority.



In addition to transferring to the Rural District Councils the powers and duties of the superseded Rural Sanitary Authorities, the new Act provides more effective machinery for conferring on the Rural District Councils powers which are ordinarily possessed by Urban Authorities only.

Sanitary Powers.

Powers of an Urban Authority.

Section 276 of the Public Health Act, 1875<sup>1</sup> enables the Local Government Board, on the application of a Rural District Council or of persons rated to the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the rateable value of the district or of any contributory place therein, by order to declare any provisions of the Act in force in urban districts to be in force in such rural district or contributory place, and to invest the District Council with all or any of the powers and duties of an urban authority under the Act.

Public Health Act, 1875.

The order may be made unconditionally, or subject to any conditions as to the time, portion of the district, or manner during at and in which the powers and duties are to be exercised and attach, and when the application for the order is made by the ratepayers of any contributory place, the order is not to extend beyond the limits of the place. A "contributory place" under the Act is a Special Drainage District, and every parish or part of a parish in the rural district not comprised in the area of a Special Drainage District. Where a parish is partly in a Special Drainage District, the part without the district forms a separate contributory place (s. 229). A Special Drainage District may be constituted of any portion of the area within the jurisdiction of a Rural District Council (s. 277).

"Contributory place."

Among the powers of an urban authority under the Public Health Acts which can thus be conferred on a Rural District Council may be mentioned, powers with respect to Offensive Trades, Streets, New Buildings, Lighting, Public Pleasure Grounds, Hackney Carriages and Slaughter Houses.

Orders under section 276 of the Public Health Act, 1875, may be made to apply the provisions of certain other Acts to Rural Districts. Any provisions of the Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59) in force in urban districts only (s. 5), and the provisions of the Private Street Works Act, 1892 (55 & 56 Vict. c. 57), s. 4, may be thus extended to rural districts.

Other Acts.

The powers conferred on the Local Government Board by section 276 of the Act of 1875, or by any enactment applying that section, may now be exercised not only on the application mentioned in the section, but also on the application of a County Council, or with respect to any parish or part of a parish on the application of the Parish Council of that parish (Local Government Act, 1894, s. 25 (7)).

Application by County or Parish Council.

<sup>1</sup> This Section is reprinted at page 325 of the Appendix.

Sanitary Powers.  
Powers of an  
Urban Authority

A further power is given to the Local Government Board to direct by general order that any of the powers, duties, and liabilities of Urban Sanitary Authorities under the Public Health Acts or any other Act shall be conferred on Rural District Councils, and that any provisions of those Acts relating to urban districts shall apply to rural districts (s. 25 (5)).

An order under this provision may be made by the Local Government Board on their own initiative but it must be a "general order," that is, an order which at the time of issuing is directed to and affects more than one Rural District Council. It is the practice of the Local Government Board to describe a general order as such at the time of issuing it.

The power to make such general orders is to be in addition to and not in substitution for the powers conferred on the Local Government Board by section 276 of the Public Health Act, 1875, or by any enactment applying that section; and every such general order made by the Local Government Board is to be forthwith laid before Parliament (s. 25 (6)).

Plans for  
Sewerage.

Where a Rural District Council have determined to adopt plans for the sewerage or water supply of any contributory place within the district, they must give notice thereof to the Parish Council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works (s. 16 (3)). The Parish Council will thus have an opportunity of considering what the District Council are proposing to do; but the Act confers no power on them to interfere with the discretion of the Rural District Council in the performance of their duties with respect to sewerage or water supply. Any action that the Parish Council could take would be in the way of recommendation only.

Delegation to  
Parish Council.

A Rural District Council may delegate to a Parish Council any power which may be delegated to a parochial committee under the Public Health Acts, and where the District Council appoint a parochial committee consisting partly of members of the District Council and partly of other persons, those other persons must, where there is a Parish Council, be selected from the members of the Parish Council (s. 15).

It will be competent for the Rural District Council to appoint all the parish councillors members of the parochial committee in conjunction with members of the District Council. This provision has been treated of in connection with the powers of the Parish Council, *see* page 67.

## HIGHWAY POWERS.

Transfer of  
powers of High-  
way Authorities.

All the powers, duties, and liabilities of any Highway Authority in their district cease to exist, and are from the appointed day trans-

ferred to the Rural District Council. That Council become the successors of the Highway Authority, and also have as respects highways all the powers, duties, and liabilities of an Urban Sanitary Authority under sections 144 to 148 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), and those sections are to apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority. But the Council of any County may by order postpone within their county or any part of the county, the operation of this provision for a term not exceeding three years from the appointed day, or such further period as the Local Government Board may on the application of such Council allow (s. 25 (1)).

Highway Powers.  
Council becomes successors of the Highway Authority.

Postponement.

The Rural District Council succeed under this provision to any Highway Board or authority having the powers of a Highway Board, and where a parish separately maintained its own highways to the Surveyor or Surveyors of Highways or other officers performing similar duties (Local Government Act, 1888, s. 100). But they do not take over from a County Council the management of main roads, as a County Council are not included in the expression, "Highway Authority." Where the Rural Sanitary Authority have exercised the powers of a Highway Board under sections 4 and 5 of the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77), the Rural District Council as successors to the Rural Sanitary Authority will continue to do so, and will have the additional powers and duties relating to highways of an urban authority conferred by section 25 (1) of the Local Government Act, 1894.

Highway Boards and Surveyors of Highways.

Main Roads.

The Rural District Council after the transfer has taken place will within their district, exclusively of any other person, execute the office of and be Surveyor of Highways, and have, exercise, and be subject to all the powers, authorities, duties, and liabilities of Surveyors of Highways, and of the inhabitants in Vestry under the Highway Acts. All ministerial acts required by any Act of Parliament to be done by or to the Surveyor of Highways may be done by or to the surveyor of the Rural Authority, or by or to such other person as they may appoint (38 & 39 Vict. c. 55, s. 144). Under section 29 of the Highways Act 1835, the consent of four-fifths of the inhabitants of any parish contributing to the highway rate, at a meeting specially called for that purpose is necessary before the highway rate may exceed at any one time 10d. in the pound, or 2s. 6d. in the pound in the whole in any one year, but this provision will not be applicable to a rate levied for highway expenses by a Rural District Council.—*Dyson v. Greetland Local Board* (13 Q. B. D. 946; 53 L. J., M. C., 106; 48 J. P. 596).

Powers under the Public Health Act, 1875.

Inhabitants of the District will not in respect of any property

Highway Powers.  
—

situated in the district, be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways outside the district.

## Powers under the Public Health Act, 1875.

In addition to the powers of a surveyor of highways and of the vestry of a highway parish, the Rural District Council will have certain additional powers under the Public Health Act.

## New Roads.

They may agree with any person for the making of roads in their district for the public use through his lands and at his expense, and may agree that the roads shall become on completion, highways maintainable and repairable by the inhabitants at large within their district: they may, also, with the consent of two-thirds of their number, agree with such person to pay any portion of the expenses of making the roads (38 & 39 Vict. c. 55, s. 146).

## Bridges.

There is a similar provision enabling the Rural District Council to agree with the proprietors of any canal, railway, or tramway, to adopt and maintain any existing or projected bridge, viaduct, or arch in their district, over or under the canal, railway, or tramway, and the approaches thereto, or to construct at the expense of the proprietors any such structure, or with the consent of two-thirds of the Council to agree to contribute towards the expenses of the construction or alteration of any such structure, or the purchase of lands for the foundation or support of, or approaches to any such structure (s. 147).

## Turnpike and other Roads. County Bridges.

Further, the Rural District Council may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or with the surveyor of any county bridge take on themselves the maintenance, repair, cleansing, or watering of any such street or road, or of any road over any county bridge and the approaches thereto within their district, and may remove any turnpike gates, toll gates, or bars within their district, and erect others in lieu thereof on such terms as may be agreed (s. 148). The section contains safeguards for the mortgagees of the tolls of any turnpike road, but so far as the enactment relates to turnpike roads it is now practically obsolete as nearly all turnpike trusts have been wound up.

## “Excluded part.”

Where the Council of a rural district become the Highway Authority for that district, any “excluded part” of a parish under section 216 of the Public Health Act, 1875, which is situate in that district, will cease to be part of any urban district for the purpose of highways, but until the Council become the highway authority the “excluded part” will continue subject to that section (s. 25 (4)).

The enactment referred to, which is printed at page 317 of the Appendix relates to the management of highways in a parish partly included in an urban district. It directs that where the excluded part was, before the constitution of the urban district, liable to contribute to the highway rates of the parish, it shall for all purposes connected with the repairs of highways and the payment of highway

rates be considered to be and be treated as forming part of the urban district. Under certain circumstances the owners and ratepayers of the excluded part could decide that for all purposes connected with highways, surveyors of highways, and highway rates, the excluded part should be considered and treated as a parish maintaining its own highways. An excluded part becomes by section 1 (3) of the Local Government Act, 1894, a separate civil parish<sup>1</sup>; but if the Rural District Council do not, when they come into office, become the Highway Authority, the excluded part will, until the District Council do so become, continue for the purpose of highways to form part of the urban district.

Highway  
Powers.  
—  
"Excluded  
part."

Under ordinary circumstances the highway expenses of a Rural District Council are to be defrayed as general expenses of the Council, that is, they will be a charge upon the whole rural district. But this direction of section 29 of the Local Government Act, 1894, is subject to the special provision that a District Council are to have the same power of charging highway expenses under exceptional circumstances on a contributory place as a Highway Board had in respect of any area under section 7 of the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77). If, therefore, the District Council think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any contributory place or places should bear the expense of maintaining its or their own highways, they may (with the approval of the County Council or of the County Councils within whose county or counties their district is situated) divide their district into two or more parts, and charge exclusively on each of such parts the expenses of maintaining and keeping in repair the highways situated in each such part. Each part must consist of one or more contributory places.

Expenses.  
General.  
  
Special.

Any order of the County Council postponing the transfer of highway powers to the Rural District Councils must be made before the appointed day, namely, the day on which the first elected rural district councillors come into office, and in the absence of any such order the Rural District Council will on that day succeed to every Highway Authority in their district (Local Government Act, s. 25 (1)), but where an order of a County Council postpones the operation of the provision relating to highways as respects their county or any part of the county the day on which the postponement ceases will, as respects the county or part, be the appointed day (s. 84 (4)).

Order of  
postponement.

Where before the appointed day the highway expenses were charged on a particular parish or other area and not on a district, the District Council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same

Repair of  
transferred  
highways.

<sup>1</sup> See page 10.

Highway  
Powers.  
—  
Repair of  
transferred  
highways.

become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the District Council, the District Council may themselves place the highways in proper repair, and the expense incurred by them of placing those highways in proper repair is to be a separate charge on the parish or area. Any question which arises as to whether any such expenses are properly a separate charge on the parish or area is to be determined by the County Council (s. 82 (1)).

This provision is intended to avoid the injustice which might arise where a highway area having roads in good repair becomes under the Rural District Council combined with another area having roads not in proper repair, if each area contributed on the same basis towards placing those roads which required it in proper repair. Three different classes of highway areas may come under the operation of the provision, namely, the ordinary highway parish which separately maintained its own highways, the district or part of the district of a Highway Board, and an "excluded part" of a parish under section 216 of the Public Health Act, 1875<sup>1</sup>.

Expenses of  
Parish con-  
tinuing to repair  
its Highways.

Where in pursuance of an order of a County Council a parish continues to maintain its own highways after the appointed day, the highway expenses are not to be deemed to be expenses of the Parish Council or of the Parish Meeting within the meaning of the Local Government Act, 1894 (s. 82 (2)). Highway expenses will, therefore, not be taken into account in connection with the limitation of the rate for defraying the expenses of a Parish Council or Parish Meeting<sup>2</sup>.

### *Continuance in office of Highway Boards.*

Continuance in  
office of High-  
way Boards.

Until the appointed day, namely, the day of the coming into office of the first rural district councillors elected under the Local Government Act, the persons who at the passing of the Act (that is the 5th of March 1894), were members of Highway Boards continue in office, notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day. A Highway Board consists of elected members called waywardens, and of *ex-officio* members who are the justices acting for the county, and residing within the highway district. Both the waywardens and the *ex-officio* members will be continued in office until the appointed day. A casual vacancy in the office of waywarden occurring before the appointed day would be filled by the justices [Highway Act, 1835 (5 & 6 Will IV. c. 60) s. 11; Highway Act, 1862 (25 & 26 Vict. c. 61) s. 10].

Elections in  
1894 of Surveyors  
of Highways.

The elections of surveyors of highways under section 6 of the Highways Act, 1835, and of surveyors forming a Board for the Repair of Highways under section 18 of the Act, take place as usual in 1894

<sup>1</sup> See page 148.      <sup>2</sup> See pages 27 and 69.

and any casual vacancy in the offices occurring before the appointed day must be filled in the usual manner, as provided by the Act of 1835.

Continuance in office of Highway Authorities.

Where the County Council postpone the transfer of highway powers to the Rural District Council, the order of postponement must make such provision as may be necessary for holding elections of Highway Boards during the interval before the appointed day (s. 84 (4)).

Elections of Highway Board under order of postponement.

Waywardens are elected by the inhabitants of a highway parish at their first meeting in Vestry for the nomination of overseers of the poor in every year (5 & 6 Will. IV. c. 50, s. 6; 25 & 26 Vict. c. 61, s. 10). If the County Council make an order of postponement the power to elect the waywardens, being a power of the Vestry, is transferred in a parish with a Parish Council to that Council, and in a parish without a Parish Council to the Parish Meeting (Local Government Act, 1894, ss. 6 (1), 19 (4)). An order of postponement does not require confirmation by any authority.

Waywardens.

### TRANSFER OF OFFICERS.

The officers of a highway authority whose powers and duties become transferred to the Rural District Council, and the officers of the Rural Sanitary Authority to whom the District Council succeed become the officers of that Council, and for this purpose the body appointing a surveyor of highways is deemed to be a highway authority, and any paid surveyor to be an officer of that body.

Transfer of officers.

Every such officer will hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties is to receive not less salary or remuneration than heretofore (s. 81 (1) (4)).

Tenure of office.

Under these provisions a Rural District Council may find that they have more than one set of officers to perform the same class of duties. In many instances the district of a Highway Board comprises more than one rural sanitary district, whilst the rural sanitary district in its turn is comprised in more than one highway district. Where the former is the case the services of the officers of the Highway Board will, subject to other arrangements being made, have to be divided and given to each authority: and where the latter is the case an allocation of duties must be made by the Rural District Council to whom the officers are transferred. If a Rural District Council succeed to the powers of a Highway Board, the clerk, treasurer, and district surveyor of the Highway Board will become officers of the District Council, who will also have the services of the clerk and other officers of the Rural Sanitary Authority whom that Council succeed. As the Rural Sanitary Authority and the Board of Guardians were one and the same authority the clerk and treasurer of the guardians were also clerk and treasurer of the Rural Sanitary Authority. In order to compensate those officers for the additional duties imposed upon them in

Rural District Council may find itself with two sets of officers.

Transfer of  
officers.

consequence of their acting as officers of the Rural Sanitary Authority it was provided by section 190 of the Public Health Act, 1875, that there might be awarded to them in respect of the additional duties, such remuneration as the Rural Authority might, with the approval of the Local Government Board determine. The section directed that if the clerk of the union was unable or unwilling to undertake the additional duties, the assistant clerk of the union should be appointed to discharge the duties with a remuneration fixed in a similar manner.

Compensation  
to transferred  
officers, whose  
services are  
dispensed with.

Difficulties arising out of the transfer of existing officers may be overcome by dispensing with the services of some of the transferred officers, and where those services are dispensed with the officers will be entitled to compensation under the general provisions of the Act, to which reference is made on page 184.

Appointment  
of officers.

Subject to the transfer of officers to the new Rural District Councils, those Councils being authorities entirely independent of the Boards of Guardians, need not, when vacancies arise, necessarily appoint as their clerks or treasurers the union clerks or treasurers. Under section 190 of the Public Health Act, 1875, they are empowered to appoint such officers and servants as may be necessary and proper for the efficient execution of that Act. Although no express power of appointing officers is conferred upon a Rural District Council by the Local Government Act, 1894, such a power is incidentally implied, and they would be authorised to appoint and remunerate any officers that might be necessary for carrying the Act into execution, or to take duties under the Act into account in fixing the remuneration of officers appointed primarily to discharge other duties.

### DEFAULT OF RURAL DISTRICT COUNCIL.

Complaints of  
Parish Council  
to County  
Council.

Where a Parish Council resolve that a Rural District Council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce, and have failed so to do, or that they have failed to maintain and repair any highway in a good and substantial manner, the Parish Council may complain to the County Council, and the County Council, if satisfied after due inquiry that the District Council have so failed as respects the subject matter of the complaint, may resolve that the duties and powers of the District Council for the purpose of the matter complained of be transferred to the County Council, and they will be transferred accordingly (s. 16 (1)).

District in more  
than one  
county.

If the rural district is situate in two or more counties the Parish Council may complain to the County Council of the county in which



the parish is situate, and if the subject-matter of the complaint affects any other county the complaint is to be referred to a joint committee of the Councils of the counties concerned. Any question arising as to the constitution of the joint committee is to be determined by the Local Government Board, and if any members of the joint committee are not appointed the members who are actually appointed are to act as the joint committee (s. 63 (2)).

Complaints by  
Parish Council.

Under the Public Health (Water) Act, 1878 (41 & 42 Vict. c. 25, s. 3), it is the duty of every Rural District Council to see that every occupied dwelling-house within their district has within a reasonable distance an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates of the house (s. 3).

Water supply.

A similar right to complain of the default of a Rural District Council is conferred on any person by section 299 of the Public Health Act, 1875 (38 & 39 Vict. c. 55), but a complaint under that enactment is made to the Local Government Board, who are empowered to require the performance of their duty by the defaulting authority. The mode of procedure prescribed by section 16 of the Local Government Act, 1894, will probably be found more effective in practice on account of the County Council being empowered to perform the duty of the defaulting authority. The provisions of the Act which will have effect on the transfer of the powers of a District Council to the County Council are referred to on page 182.

Provision in  
Public Health  
Act, 1875.

But instead of resolving that the duties and powers of the defaulting Rural District Council be transferred to them in the matter of the complaint of a Parish Council, the County Council may make such an order as is mentioned in section 299 of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment sections 299 to 302 of the Public Health Act, 1875, will apply with the substitution of the County Council for the Local Government Board (s. 16 (2)).

Proceedings of  
County Council.

The County Council accordingly will be enabled to make an order limiting the time for the performance of their duty by the defaulting District Council in the matter of the complaint. If the duty is not performed by the time limited in the order, the County Council may appoint a person to perform it, and must by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the defaulting District Council. Any order made for the payment of such expenses and costs may be removed into the Queen's Bench Division of the High Court of Justice, and be enforced in the same manner as an order of the Court (38 & 39 Vict. c. 55, s. 299). Such an order is enforceable against a Corporation by sequestration against the corporate property, or by attachment against the officers of the

Default of  
Rural District  
Council.

Expenses.

Corporation, or by writ of sequestration against their property (Rules of the Supreme Court, Order 42, Rule 31).

Any sum specified in the order of the County Council, together with the costs of the proceedings, is made a debt due from the District Council and payable out of any of their funds, or out of the local rate, which would be raised in accordance with the provision of section 230 of the Public Health Act, 1875. If the defaulting Council refuses to pay within fourteen days after demand the County Council may, by order, empower any person to levy by and out of the local rate a sufficient amount to defray the debt (s. 300).

Loans.

When a loan is required for the purpose of defraying the expenses of the person appointed in performing the duty of a defaulting District Council an amount certified by the County Council may be advanced by the Public Works Loan Commissioners on the security of the local rate (s. 301), and any principal money or interest for the time being due in respect of any such loan is to be taken to be a debt due from the District Council, and may, in addition to any other remedies, be recovered in the manner in which a debt due from a defaulting District Council is, under the provisions previously referred to, recoverable (s. 302).

### STOPPING OF PUBLIC WAYS.

Consent to  
stopping of way.

The consent of the Rural District Council is required for the stopping in whole or in part, or diversion of a public right of way within a rural parish<sup>1</sup> (s. 13 (1)). Where the transfer to the Rural District Council of the powers of the Highway Authority is postponed by the County Council, under section 25, this consent of the District Council will still be necessary.

## II.—District Councils (Urban and Rural).

### HIGHWAYS.

Highways  
repairable  
*ratione tenuræ*.

Where a highway repairable *ratione tenuræ*, that is, by the occupier of the lands adjoining the highway to which the liability is attached, appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the District Council to place it in proper repair, the District Council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing (s. 25 (2)).

Procedure to  
enforce repair.

Under Section 34 of the Highway Act, 1862 (25 & 26 Vict. c. 61), as amended by Section 23 of the Highway Act, 1864 (27 & 28 Vict. c. 101), where any highway which any body politic or corporate or person is liable to repair by reason of tenure of any land is adjudged in the manner provided by the Act of 1862 to be out of repair, the Highway Board may, if they think fit, direct their surveyor to repair

<sup>1</sup> See page 65.

the highway, and the expenses are to be paid by the party liable to repair. The procedure for adjudging a highway to be out of repair is prescribed by sections 18 and 19 of the Act of 1862. The party liable is summoned before the justices, and unless he undertakes to repair the road to the satisfaction of the justices or denies his liability to repair, the justices are to direct him to appear at some subsequent petty sessions. In the meantime the justices are required to view the highway, or appoint some competent person to do so, and if satisfied that it is not in a state of complete repair it is their duty to make an order limiting a time for the repair of the highway. If the liability to repair is disputed the justices are to direct a bill of indictment to be preferred at the next assizes against the party charged therewith for suffering and permitting the highway to be out of repair. Similar provisions are in force in South Wales under the South Wales Highway Acts.

Highways.

Procedure to  
enforce repair of  
highway by  
parties liable.

These enactments are also applicable in a district where a District Council is the Highway Authority, but they do not afford a ready and convenient remedy for enforcing the liability to repair *ratione tenuræ*. The new provision in the Local Government Act provides a procedure which does not require any application to the justices where the liability to repair is not disputed. Where the liability is disputed it will apparently still be necessary to try that issue by indictment.

Section 25 (2) of the new Act does not apply to County Boroughs, but it seems to apply to every other urban district, although the first subsection of section 25 applies to a Rural District Council only. The language is not clear, as the expression in subsection (2), "the District Council" might be construed as referring to the Rural District Council mentioned in the preceding subsection. On the other hand the operation of the section is evidently not restricted to Rural District Councils only, so that it is no violence to the language of subsection (2) to hold that the subsection extends to all urban districts other than county boroughs (*see s. 35*).

Application of  
new provisions.

Under subsection 10 of section 11 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), a County Council may, if they think fit, contribute towards the cost of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road. The contribution is entirely voluntary on the part of a County Council, and in making it they might seemingly have laid down what conditions they pleased. It is now expressly provided by the new Act that where a Highway Authority receives any contribution from the County Council towards the cost of any highway under this provision of the Act of 1888, the contribution may be made, subject to any conditions for the proper maintenance and repair of such highways, as may be agreed on between the County Council and Highway Authority (Local Government Act, 1894, s. 25 (3)).

County  
contribution to  
repair of high-  
way.

Highways.  
Sale of exhausted  
land.

The consent of justices will not, in future, be required for the sale of land belonging to a parish which has been used for materials for the repair of highways or for the purchase of land with the proceeds of any such sale (s. 52 (3)).

Consent of  
Justices.

Under section 48 of the Highway Act, 1835, the Highway Authority are authorised and required to sell and convey to some person whose lands adjoin, or, if he refuse to purchase, to any other person any parcels of land expressly allotted under Inclosure Acts to a parish for the purpose of obtaining materials for the repair of the highways, and in which the materials have been exhausted, and to purchase other lands in lieu thereof. The enactment required the consent of justices to the sale and the price to be paid, and also to the purchase of other lands. This consent will no longer be required even where a County Council postpone the transfer of the highways to the Rural District Council.

Protection of  
rights of way  
and roadside  
wastes.

The Local Government Act, 1894, makes it the duty of every District Council other than the Council of a county borough to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district, but the duty thus imposed upon the District Council is not to affect the powers of the County Council in relation to roadside wastes (s. 26 (1) (6)).

Obstruction of  
Highway.

Independently of this provision every Highway Authority is bound to prevent the stopping or unlawful obstruction of a highway under their control and management, and the provision so far as it relates to such a highway is merely declaratory of previously existing law, but it goes further, in that it imposes a duty on the District Council even where the public way is not within their district if the way is in an adjoining district in the county or counties in which the district is situate, and the stoppage or obstruction would in their opinion be prejudicial to the interests of their district. They thus in such cases share the responsibility of preventing the stopping or obstruction of the way with the Highway Authority in whose district the way actually is.

Powers of  
County Councils.

Section 11 (1) of the Local Government Act, 1888, conferred on a County Council the same powers as a Highway Board for preventing and removing obstructions, and for asserting the right of the public to the use and enjoyment of the roadside wastes, but no special powers with respect to roadside wastes were possessed by Highway Boards. In *Curtis v. Kesteven County Council*, 45 Ch., D. 504, it was held that the herbage on roadside wastes is not vested in a

County Council by virtue of section 11 (6) of the Local Government Act, 1888, and at the instance of the Lord of the Manor and his tenants an injunction was granted to restrain the County Council from cutting and removing the grass, timber, and other growths from the sides of the main road.

Highways.  
—

A roadside waste must either be a part of the highway, in which case the ordinary law as to encroachments on the highway is applicable, or be unenclosed land belonging to the owners of the lands adjoining the highway, or be part of the waste lands of a manor. In disputed cases it would often be a difficult question of fact, rather than of law, to determine in which category any particular roadside waste should be placed. The obligation imposed on the District Council to prevent any unlawful encroachment on any roadside waste within their district must be construed as being applicable only where the public have a right of free passage over the roadside waste, or in other words where it is already part of the highway, or where it forms part of the waste of the manor. It cannot be intended to make it their duty to protect land in ordinary private ownership from unlawful encroachments. Where the roadside waste actually forms, in the case of a main road, part of the highway, it will also be the duty of the County Council to prevent unlawful encroachments. The roadside wastes to which the provision applies must be within the district of the District Council.

Encroachment  
on roadside  
waste.

### COMMONS.

A District Council may with the consent of the County Council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the Council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may, under section 8 of the Commons Act, 1876 (39 & 40 Vict. c. 56), be exercised by an Urban Sanitary Authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district must be served upon the District Council (s. 26 (2)).

Protection, &c.,  
of commons.

Section 8 of the Commons Act, 1876, which is reprinted in full at pages 260 and 261 of the Appendix, requires that notice of any application under the Act in relation to a common (that is of any application to the Board of Agriculture for a provisional order for the regulation or inclosure of a common) which is in or within six miles of any urban district of not less than 5,000 inhabitants shall be served on the Council of that district. In future the notice must be served on any District Council, whether urban or rural, in whose district the common is situated, as well as upon the District Council of any urban district situated within the specified distance of the common.

Regulation and  
inclosure of  
Commons.

The Urban Authority are empowered to appear at a local inquiry,

Commons.  
Regulation and  
Inclosure of.

and also to appear before the Board of Agriculture, and to make representations concerning the application. With the sanction of the Board of Agriculture they may contribute towards the maintenance of recreation grounds, or of paths or roads, or the doing of any other matter, for the benefit of their district. They may, with the same sanction, pay compensation in respect to the rights of commoners for the purpose of securing greater privileges for the benefit of their district. They may also purchase the rights of common. Under certain circumstances they may, with the consent of persons representing at least one-third in value of the interests in the common, be invested by the Board of Agriculture with such powers of management or other powers as may be expedient.

Any District Council, whether urban or rural, and whatever the population of their district, may now, with the consent of the Council of the county in which the common is situated, exercise the powers of an Urban Authority under this provision of the Commons Act.

Restriction on  
Inclosure.

The Law of Commons Amendment Act, 1893 (56 & 57 Vict. c. 57), prohibits the enclosure or (as it is also technically called) improvement of any part of a common under the ancient statutes of Merton and of Westminster the second, unless it is made with the consent of the Board of Agriculture, who, if necessary, may, before giving such consent, hold the same inquiries as are directed by the Commons Act, 1876.

#### LEGAL PROCEEDINGS.

Public right of  
way.

Where a Parish Council have represented to the Rural District Council that any public right of way within the district or an adjoining district, in the county or counties in which the district is situate, has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, it is made the duty of the District Council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly; and if the District Council refuse or fail to take any proceedings in consequence of such representation, the Parish Council may petition the County Council for the county within which the way or waste is situate, and if that Council so resolve the powers and duties of the District Council under the Local Government Act, 1894, with respect to the matter will be transferred to the County Council.<sup>1</sup> It will be the powers and duties of the District Council concerning whom the petition is made which will be transferred to the County Council, and these powers and duties may relate to a right of way in a district other than that of the defaulting Rural District Council.

Encroachment  
on roadside  
waste.

Petition to  
County Council.

Transfer of  
Power.

A District Council may, for the purpose of carrying into effect section 26, institute or defend any legal proceedings, and generally take such steps as they deem expedient. Any proceedings or steps

<sup>1</sup> See page 182 as to this transfer.

taken by a District Council, or by a County Council in default of the District Council, in relation to any alleged right of way are not to be deemed to be unauthorised by reason only of such right of way not being found to exist (s. 26 (3) (4) (5)). If the District or County Council act *bonâ fide* and reasonably, they will be protected as regards recoupment of the expenses incurred, although in the result no right of way is found to exist.

Highways and  
Commons.

Legal  
Proceedings.

#### SUPPLEMENTAL PROVISIONS.

Nothing in section 26 is to prejudice any powers exercisable by an Urban Sanitary Authority at the passing of the Act, so that the powers which any urban authority could have exercised under section 8 of the Commons Act, 1876, in respect of a common not within their district, will not be affected by the powers conferred by section 26 on the District Council of the district in which a common is situated in respect of the same matter.

Saving for  
powers of Urban  
District Council.

Commons Act,  
1876.

The Council of a County Borough are to have the additional powers conferred on a District Council by section 26. These powers are the power to aid persons in maintaining rights of common and the power to take proceedings or steps in relation to any alleged right of way, although it may not be found to exist. The powers of a Council of a County Borough with respect to a right of way can only be exercised where the right of way is within the borough.

County  
Boroughs.  
Rights of  
Common.  
Right of way

A County Council may employ a District Council as their agents in the transaction of any administrative business on matters arising in, or affecting the interests of, its own district (Local Government Act, 1894, s. 64). This is an extension of the principle of section 28 of the Local Government Act, 1888, which enabled the County Council to delegate, with or without any restrictions or conditions any powers or duties transferred to them in pursuance of the Act to any District Council, except the power of raising money by rate or loan. The provision in the new Act is not restricted to transferred business. The power of a District Council to bind the County Council will depend upon the general law of agency. An appointment of a District Council as agents of a County Council in the transaction of any business should be made under seal.

District Council  
as agents of  
County Council.

#### LICENSING AND OTHER POWERS.

As from the appointed day the powers, duties, and liabilities of justices out of session in relation to—

Transfer of  
powers of  
justices.

- (a) the licensing of gang masters ;
- (b) the grant of pawnbrokers certificates ;
- (c) the licensing of dealers in game ;
- (d) the grant of licences for passage brokers and emigrant runners ;
- (e) the abolition of fairs and alteration of days for holding fairs ;
- (f) the execution as the local authority of the Acts relating to petroleum and infant life protection ;

Licensing  
powers.  
—

and the powers, duties, and liabilities of Quarter Sessions in relation to the licensing of knackers' yards within a County District are transferred to the District Council, to whom all fees payable in respect of the powers, duties, and liabilities transferred will be payable (s. 27).

Transfer from  
justices.

This transfer takes place in every Rural and Urban District, including a County Borough (s. 32).

#### GANG MASTERS' LICENCES.

Gangmaster.

A gangmaster is any person, whether male or female, who hires children, young persons, or women with a view to their being employed in agricultural labour on lands not in his own occupation [Agricultural Gangs Act, 1867 (30 & 31 Vict. c. 130) s. 3]. Gangmasters must be licensed by the District Council, and licences which are in force for six months are granted on proof that the applicant is of good character and a fit person to be intrusted with the management of an agricultural gang. An appeal from the refusal of the District Council to grant a licence, lies to the next practicable General or Quarter Sessions (s. 7). No licence is to be granted to any person licensed to sell beer, spirits, or any other excisable liquor (s. 6).

Appeal to  
sessions.

Fee for licence.

The fee for a licence is one shilling (s. 9). Section 4 of the Act contains regulations to be observed by every gangmaster with respect to the employment of children, young persons and women.

#### PAWNBROKERS' CERTIFICATES.

A certificate of the District Council under the Pawnbrokers' Act, 1872 (35 & 36 Vict. c. 93) is necessary before a pawnbrokers' excise licence can be granted (s. 38).

Application for  
certificate.

A person intending to apply for the first time for a certificate must :—

- (1) Twenty-one days at least before the application give notice by registered letter of his intention to one of the overseers of the parish in which he intends to carry on business, and to the superintendent of police of the district, and in the notice set forth his name and address.
- (2) Within twenty-eight days before the application cause a like notice to be affixed and maintained between 10 a.m. and 5 p.m. of two consecutive Sundays, on one of the doors of the church or chapel of the parish, or if there is no church or chapel, then on some other public and conspicuous place in the parish (s. 42).

Refusal of  
certificate.

Section 43 of the Act provides that an application for a certificate shall not be refused except on one or more of the following grounds—

- (1) That the applicant has failed to produce satisfactory evidence of good character.
- (2) That the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house and place owned or occupied by him is frequented by thieves or persons of bad character; and



(3) That he has not complied with section 42.

An appeal lies to Quarter Sessions against a refusal to grant a certificate (s. 52). A certificate is in force for one year (s. 41). The following is the form of the certificate:—

We, the District Council of———, do hereby certify that we do authorise the grant to A. B., of———, in the County of———, of a licence to carry on the business of a pawnbroker within the Township of——— [*or* Parish of——— or other place as the case may be] (Sched. 6).

The Act does not authorise any charge for a certificate.

#### GAME DEALERS' LICENCES.

The District Council are authorised (if they shall think fit) to grant to any person, being a householder or keeper of a shop or stall within their District, and not being an innkeeper or victualler or licensed to sell beer by retail, nor being the owner, guard, or driver of any mail coach or other vehicle employed in the conveyance of the mails of letters, or of any stage coach, stage waggon, van, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons, a licence according to a form in Schedule A of the Act empowering the person to whom the licence is granted to buy game at any place from any person who may lawfully sell game, and also to sell the same at one house, shop, or stall only kept by him. Every licence is to be in force for one year next after the granting of it [The Game Act, 1831 (1 & 2 Will. IV. c. 32), s. 20; 2 & 3 Vict. c. 35, s. 4; Game Licences Act, 1860 (23 & 24 Vict. c. 90), s. 13]. Innkeepers and tavernkeepers may without a licence sell game for consumption in their own houses if procured from a licensed dealer in game (s. 26). An excise licence must also be taken out by dealers in game (23 & 24 Vict. c. 90, s. 14), and before that licence can be granted, the licence of the District Council must be produced (s. 15). There is no fee for the licence of the District Council.

Licensing Powers.  
—  
Pawnbrokers' Certificates.  
Appeal to Quarter Sessions.

Not to be granted to innkeepers, &c.

#### LICENCES FOR PASSAGE BROKERS AND EMIGRANT RUNNERS.

No person is to act as a passage broker, or to sell or let, or be in anywise concerned in the sale or letting of passages in any ship proceeding from the United Kingdom to any place out of Europe and not being within the Mediterranean Sea, unless he has obtained a licence from the District Council for the District in which he has his place of business to let or sell passages. The licence continues in force until the 31st of December in the year in which it is granted, and for thirty-one days afterwards. No licence is to be granted unless the applicant has first given a bond to Her Majesty in the sum of £1,000 and fourteen days' notice of his intention to apply for a licence to the Board of Trade. Upon granting the licence, the District Council must

Passage broker.

Licensing  
Powers.

—  
Passage brokers  
and emigrant  
runners.  
Notice to Board  
of Trade.

Emigrant  
runner.

send a notice according to the Form in Schedule F of the Act to the Board of Trade. [Passengers Act, 1855<sup>1</sup> (18 & 19 Vict. c. 119) s. 67].

An emigrant runner is a person other than a licensed passage broker or his *bonâ fide* salaried clerk, who, within any port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectancy thereof, directly or indirectly conducts, solicits, influences or recommends any intending emigrant to or on behalf of any passage broker, owner, charterer, or master of a ship, lodging-house or tavern, or shopkeeper, money changer, or other dealer or chapman, for any purpose connected with the preparation or arrangements for a passage, or gives or pretends to give to such intending emigrant any information or assistance in any way relating to emigration (s. 3). He must be licensed by the District Council of the District in which he acts as an emigrant runner. The licence can be obtained only upon the written recommendation of an emigrant officer, or of a chief constable or other head officer of police of the district or place (s. 76). It continues in force until the 31st of December in the year in which it is granted (s. 77).

No fees are chargeable for the licences of passage brokers and emigrant runners.

#### FAIRS.

Under the Fairs Act, 1871 (34 & 35 Vict. c. 12) upon a representation duly made to him by the District Council or by the owner of any fair, that it would be for the convenience and advantage of the public that the fair should be abolished, the Home Secretary may, with the written consent of the owner, order its abolition. Upon the like representation the Home Secretary may, under the Fairs Act, 1873 (36 & 37 Vict. c. 37), order that any fair shall be held upon days other than those on which it has been held, or on or during a less number of days than it has been held.

The Acts contain provisions requiring notices of representations made to the Home Secretary, to be given and published, and requiring the orders of the Home Secretary to be published in certain newspapers.

#### PETROLEUM ACTS.

The Petroleum Acts, 1871 to 1881, consist of the Petroleum Act, 1871 (34 & 35 Vict. c. 105); the Petroleum Act, 1879 (42 & 43 Vict. c. 47), and the Petroleum (Hawkers) Act, 1881 (44 & 45 Vict. c. 67). The Acts are executed in a harbour by the Harbour Authority to the exclusion of any other local authority; in an urban district by the Urban District Council, and in a rural district, under the Local Government Act, 1894, by the Rural District Council. Formerly the

<sup>1</sup> By the Merchant Shipping Bill now before Parliament, it is proposed to repeal this Act and re-enact its provisions. The Bill consolidates the enactments relating to merchant shipping.

Abolition.

Change of day.

By whom  
executed.

justices in petty sessions were the local authority in any place not under the jurisdiction of an urban sanitary authority or a harbour authority (34 & 35 Vict. c. 105 s. 8). The powers of the Harbour Authority remain unaffected by the Local Government Act.

Powers under  
Petroleum Acts.

The Petroleum to which the Acts generally apply, is that which gives off an inflammable vapour at a temperature of less than 73° Fahrenheit (42 & 43 Vict. c. 47, s. 2), and as a matter of fact the paraffin oil ordinarily sold for lighting purposes is not within the Acts. Petroleum to which the Acts apply is not to be kept unless in pursuance of a licence of the Local Authority, except where it is kept in separate glass, earthenware or metal vessels, each of which contains not more than a pint, and is securely stopped, and where the aggregate amount kept, supposing the whole contents of the vessels to be in bulk, does not exceed three gallons (34 & 35 Vict. c. 105, s. 7). Licences may be granted for a limited time subject to renewal or not. The local authority may attach conditions as to the mode of storage and other matters and generally as to the safe keeping of the petroleum. A fee not exceeding five shillings, as the Local Authority think fit, may be charged for a licence (s. 9). There is an appeal to the Home Secretary against a refusal to grant a licence or against any conditions which may be attached to the licence by the Local Authority (s. 10). The Petroleum (Hawkers') Act, 1881, contains regulations for hawking petroleum which apply to any petroleum whatever its flashing point.

To what  
Petroleum Acts  
apply.

Licence of local  
authority.

Conditions.

Fee for licence.  
Appeal to Home  
Secretary.

#### INFANT LIFE PROTECTION ACT, 1894

(35 & 36 Vict. c. 38).

This Act makes it an offence for any person to retain or receive for hire or reward more than one infant, and in case of twins more than two infants, under the age of one year, for the purpose of nursing or maintaining such infants apart from their parents for a longer period than twenty-four hours, except in a house which has been registered (s. 2).

Registration of  
houses.

The District Council must cause a register to be kept of the name of every person applying to register any house for the purposes of the Act, and the situation of every such house, and they must make bye-laws for fixing the number of infants who may be received into each registered house. No fee is to be charged for registration, and the registration remains in force for one year (s. 3).

Register to be  
kept.

A District Council may refuse to register any house, unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character, and able to maintain the infants intrusted to his care (s. 4).

Refusal to  
register.

If it is proved to the satisfaction of the District Council that any person whose house has been registered has been guilty of serious

Cancelling of  
registration.

Powers under  
Infant Life  
Protection Act.

neglect, or is incapable of providing the infants intrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of infants, they may strike his name and house off the register (s. 7).

Register of  
infants.

The person registered must immediately enter in a register to be supplied to him gratuitously by the District Council, the name, sex, and age of each infant under his care, and the date at which and the names and addresses of the persons from whom they were received, and must also enter in the register the time when and the names and addresses of the person by whom every infant received and retained is removed immediately after the removal, and must produce the register when required to do so by the District Council (s. 5).

The Act does not apply to the relatives or guardians of any infants, nor to institutions established for the protection or care of infants, nor to any person receiving any infant for the purpose of nursing or maintaining the infant under the provisions of any Act for the relief of the poor (s. 13).

Fees or fines.

Any moneys arising from fees or fines under the Act were required to be paid to the account of the local rate which, where the justices in Petty Sessions were the local authority, was the county rate (s. 12 and Schedule 1). The fees or fines referred to are those which arise out of prosecutions for offences under the Act. After the District Council become the local authority, those moneys will be payable to the credit of the rates of the District Council.

In boroughs the Town Council are already under the Act the local authority, so that in their case the Local Government Act effects no transfer of powers.

#### KNACKERS' YARDS.

Licence.

Under the Knackers' Act, 1786 (26 Geo. III. c. 71), s. 1, no person is without a licence of the District Council to keep or use any house or place for the purpose of slaughtering or killing any horses, cows, sheep, or other cattle which are not killed for butchers' meat. Places where such slaughtering is carried on are familiarly called knackers' yards. The licence is upon the first occasion to be granted upon certificate under the hands and seals of the minister and church-

Certificate of  
fitness.

wardens,<sup>1</sup> or overseers, or of the minister and two or more substantial householders of the Parish wherein the applicant for the licence dwells, that he is fit and proper to be trusted with the management or carrying on of the business; but a licence may be renewed without any such certificate. It continues in force for one year (7 & 8 Vict. c. 87, s. 1). Slaughterhouses, in which animals intended for human food only are killed, do not come within the scope of this statute. These slaughterhouses are subject to the

Slaughterhouses.

<sup>1</sup> So far as the churchwardens are concerned, their powers in this matter pass to the Parish Council where there is one (Local Government Act, 1894, s. 6) (1) (*l.*).

provisions of sections 169 and 170 of the Public Health Act, 1875, which are in force in urban districts, and in those rural districts or parts of rural districts where the sections have been put in force. There are some subsidiary provisions as to slaughterhouses in the Public Health Acts Amendment Act, 1890.

Licensing  
towers.  
—  
Knackers' yards.

#### EXPENSES OF DISTRICT COUNCILS.

The expenses incurred by the Council of an urban district in the execution of the additional powers conferred on the Council by the Local Government Act, 1894, are subject to the provisions of the Act, to be defrayed in a borough out of the borough fund or rate, and in any other case out of the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875 (38 & 39 Vict. c. 55) (Local Government Act, 1894, s. 28).

Expenses of  
additional  
powers, urban  
district council.

All receipts of a Town Council, in their capacity of municipal authority, are paid into the borough fund [Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50) s. 139], and all their expenses in that capacity are paid out of that fund (s. 140).

Town council.

To meet any deficiency in the borough fund the Town Council may order a borough rate to be made. For the purpose of the borough rate the Town Council may, if they consider the valuation lists in the parishes within the borough unfair, cause an independent valuation of the parishes in the borough to be made (s. 144).

The Town Council obtain payment of the contribution due from each parish by a warrant issued by the Mayor, signed by him and sealed with the corporate seal, and directed to the overseers, who then levy the rate as part of the poor rate (ss. 145, 148).

If, however, part of a parish is within a borough and part not, the overseers may levy the necessary contributions on the part of the parish liable, as part of the poor rate, or as a separate rate of the nature of a poor rate (s. 146).

Parts of parish.

In some boroughs there are special provisions in force enabling the Town Council to levy the borough rate independently, by means of their own officers.

In most urban districts, including boroughs, there is established for the purposes of the Public Health Act, 1875, a district fund (38 & 39 Vict. c. 55, s. 209), and for the purpose of defraying any expenses chargeable on that fund which it is insufficient to meet, a general district rate may be levied by the Urban District Council. A general district rate may be made prospectively or (to pay expenses incurred within six months before the making of the rate) retrospectively (s. 210). The provisions with respect to the assessment and levying of general district rates are contained in section 211 of the Public Health Act, 1875, which is reprinted at page 315 of the Appendix. Tithes, lands used as arable, meadow or pasture ground only, or as woodlands, market gardens, or nursery grounds, and

District fund.

General district  
rate.

Assessment.

Expenses.

Urban districts :  
assessment.

land covered with water or used only as a canal or towing-path for the same, or as a railway authorised by Act of Parliament, are, under the section, assessed in respect of a general district rate in the proportion of one-fourth part only of the net annual value. Orchards [Public Health (Rating of Orchards) Act, 1890 (53 & 54 Vict. c. 17)], and allotments not more than two acres in extent [Allotments Rating Exemption Act, 1891 (54 & 55 Vict. c. 33)] are also rated at one-fourth only of the net annual value. Other property is rated on the full net annual value (38 & 39 Vict. c. 55, s. 211).

Districts where  
no general  
district rate is  
levied.

In some boroughs no general district rate is levied, but the expenses of the Urban Authority, under the Public Health Acts, are paid out of the borough fund, and in certain Improvement Act districts the expenses are payable out of the general fund of the Urban Authority, or out of a rate in the nature of a general district rate leviable by the Authority under their local Act (s. 207). The expenses under the Local Government Act of an Urban District Council other than a borough will be payable out of whatever fund or rate is available for the expenses of the District Council under the Public Health Acts.

Rural district  
councils.

The expenses incurred by the Council of a rural district are, subject to the provisions of the Act, to be defrayed in manner directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a Rural Sanitary Authority, and the provisions of the Public Health Acts with respect to those expenses are to apply accordingly (Local Government Act, 1894, s. 29).

The mode of defraying the expenses of a Rural Sanitary Authority under the Public Health Act, 1875, is prescribed by sections 229 to 231 of that Act. Those sections are printed at pages 319 to 321 of the Appendix. Under them the expenses incurred by a Rural Authority are divided into general and special expenses.

General  
expenses.

General expenses consist of the expenses of the establishment and officers of the Rural Authority, the expenses in relation to disinfection and providing conveyance for infected persons, and all other expenses not determined by the Act or by order of the Local Government Board to be special expenses.

Special  
expenses.

Special expenses comprise the expenses of sewerage and of water supply in any contributory place<sup>1</sup> the charges arising out of property transferred to the Rural Authority in trust for any contributory place, and all other expenses in respect of any contributory place, and determined by order of the Local Government Board to be special expenses.

General expenses are payable out of a common fund raised out of the poor rate of parishes in the rural district according to the rateable value of each contributory place.

<sup>1</sup> See page 145 as to what is a contributory place.

Special expenses are a separate charge on each contributory place (38 & 39 Vict. c. 55, s. 229).

For the contributions due from each contributory place a precept is issued by the Rural Authority to the overseers, requiring them to pay within a time limited by the precept a specified amount to a person appointed by the authority. General and special expenses are to be respectively distinguished in the precepts. Any contribution required in respect of general expenses is to be paid by the overseers out of the poor rate, but a contribution in respect of special expenses is to be satisfied by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a poor rate, with this exception, that the same partial exemption applies to the separate rate as applies to a general district rate<sup>1</sup> in respect of tithes, agricultural, and other lands, which are to be charged at one-fourth part only of the rate in the £ payable in respect of houses and other property.

Where the amount required by a precept for special expenses is less than £10, or where a rate less than one penny in the £ would be required to raise the amount a separate rate is not to be levied, and the precept is to be met as if the demand were in respect of general expenses (s. 230).

Subject to this last provision dealing specially with cases where the amount required to meet a precept for special expenses is small, the Public Health Act, 1875, requires all expenses separately charged on a contributory place as special expenses to be raised by means of a rate towards which tithes and agricultural and other land contribute in the proportion of one-fourth only of their net annual value, and there is under that Act no authority to alter this incidence of a rate levied to meet special expenses. This partial exemption of tithes and agricultural and other land will in every case continue to apply to rates levied for the purposes of the Act of 1875, but the Local Government Act, 1894, provides machinery for making the incidence of a rate levied to satisfy expenses separately charged under its provisions on a contributory place proportionately equal on every class of rateable property in the contributory place.

When the Local Government Board determine any expenses under the Local Government Act, 1894, to be special expenses and a separate charge on any contributory place, and such expenses would, if not separately chargeable on a contributory place, be raised as general expenses, they may further direct that such special expenses shall be raised in like manner as general expenses, and not by such separate rate for special expenses as is mentioned in section 230 of the Public Health Act, 1875.

Expenses of  
Rural District  
Council.

Contribution  
orders.

Partial exemp-  
tion of tithes and  
agricultural  
land.

<sup>1</sup> See page 165.

Expenses of  
Rural District  
Council.

Anomalies of  
rating.

In urban districts other than boroughs the Local Government Act by providing that expenses under the Act shall be paid out of the district fund and general district rate, has created this anomalous state of things, that in those urban districts tithes and land will be assessed at one-fourth of their value only, whilst the same class of property will for the purposes of the Act be assessed in boroughs and generally in rural districts on its full value. The difficulty in the way of uniform treatment in this respect was that there is no existing mode of raising expenses in Local Board and Improvement Act districts analogous to a borough rate, or a precept to defray the expenses of a Rural Sanitary Authority. In those districts, only a general district rate or rate of the same nature is levied.

Highway  
expenses.

Highway expenses are always to be defrayed as general expenses of the Rural District Council subject to the power of the Council to charge those expenses under exceptional circumstances on a contributory place.<sup>1</sup> A highway area which enjoyed the benefit of property or funds applicable to the repair of the highways will continue to do so under the new Act. Where highway expenses would, if the Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the District Council must make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area (s. 29).

In case of post-  
ponement of  
transfer of  
powers of high-  
way authority.

No satisfactory provision is made by the Local Government Act, 1894, for certain cases which may not infrequently arise where a County Council postpone for a part or parts of their county the transfer of the powers of existing highway authorities to the Rural District Councils, or where neighbouring counties adopt different courses in respect of that matter. A rural district is not necessarily co-terminous with highway parishes or districts, and it may in special circumstances be in more than one administrative county. If a rural district comprises more than one highway district, and as the result of an order of postponement by a County Council, the Rural District Council becomes on the appointed day the highway authority for a part only of their district the question as to how the highway expenses of the District Council are to be defrayed is a matter of much importance. They will be general expenses according to section 29 of the Act, and as such will be payable by every contributory place in proportion to its rateable value, although it will be unfair to those places who have also to pay highway rates during the period of postponement. The provision for charging highway expenses under special circumstances on a contributory place<sup>2</sup> seems inapplicable as it contemplates not the exemption of any part of the district, but a differential contribution to the expenses incurred by the highway authority. The Local Government Board do not

<sup>1</sup> See page 149.



seem to be empowered to declare highway expenses to be special in the face of the express direction of the Act that they shall be defrayed as general expenses. Before a County Council determine to postpone within their county or any part of it the provision of the Act for the transfer of the powers of existing highway authorities, the effect of their order on the incidence of rates for highway purposes in each rural district should be considered.

Special funds now available for the repair of the highways of a parish or other area will continue to be so applied that the benefit of those funds will accrue to the particular area for which they have been applicable. There are numerous instances where bequests have been made for the purpose of keeping highways in repair.

Expenses of  
Rural District  
Council.

In case of post-  
ponement of  
transfer of  
powers of high-  
way authority.

### Urban Councils and London Vestries.

In its inception the Local Government Bill was intended to reform the parochial system of local government in rural parishes only ; but the anomaly of leaving the parochial administration in boroughs and other urban districts, and in London, untouched, whilst complete control over the appointment of parish officers and the general affairs of the parish was given to the new Authorities created in rural parishes was found incapable of defence, although, on the other hand, it was admitted that there would be considerable objection to the establishment of a remodelled parochial organisation side by side with Town Councils and other Authorities having fuller powers of effective administration. Each borough or town requires individual treatment for the purpose of adjusting the ancient parochial system to the circumstances which have grown up in and around its parishes, and the means of making this adjustment where it is deemed necessary has been found in the familiar device of an order of a government department.

Provisions  
relating to rural  
parishes made  
applicable to.

On the application of the Council of any Municipal Borough, including a County Borough, or of any other urban district, or of any Sanitary Authority in the Administrative County of London, or of any representative body within a borough, the Local Government Board may make an order conferring on that Council, or Sanitary Authority, or some other representative body within the borough or district, all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities of overseers, and any powers, duties, or liabilities of a Parish Council, and applying with the necessary modifications the provisions of the Local Government Act, 1894, with reference thereto. The order may provide for its operation extending either to the whole or to specified parts of the area of the borough or other district, and may make such provisions as seem necessary for carrying the order into effect ; but it is not to alter the

Order of Local  
Government  
Board to give  
urban district  
councils and  
London sanitary  
authorities  
powers of over-  
seers and of  
parish councils.

Transfer of powers relating to rural parishes.

incidence of any rate, and must make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers (s. 33 (1) (3) to (6)).

Application for.

Before the Local Government Board move in the matter, they must be set in motion by an application from one of the bodies mentioned. In London the Sanitary Authorities to which section 33 refers are the Vestries mentioned in Schedule A and the District Boards mentioned in Schedule B of the Metropolis Management Act, 1855, as amended by subsequent Acts and the Local Board of Woolwich.<sup>1</sup> Among the representative bodies who might make an application under the section are Boards of Guardians and Vestries elected under local Acts or otherwise. In some places a Board of Overseers are elected under a local Act, and an application could apparently be made by such a Board. An application within the meaning of the section could not be made by an ordinary open Vestry, as that would not be a representative body.

Scope of order.

The mode of appointing overseers and assistant overseers, and the various powers and duties of Parish Councils, have been fully discussed in Chapters IV. and VI. of this handbook. Among the powers and duties of overseers which are most likely to be applied for are those relating to the valuation of the parish and the collection of rates. It does not seem within the scope of an order of the Local Government Board, under section 33, to confer on a Town Council, or other body, any of the powers which are in a rural parish transferred from the Vestry or churchwardens to the Parish Council; although the order might confer any of the powers of overseers on the Town Council or other body. But to this, one exception is expressly made by section 34, which provides that where an order of the Local Government Board under the Act confers on the Council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers, or the powers, duties, and liabilities of overseers, that order, or any subsequent order, of the Board may confer on such Council or body the powers of the Vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41).

Rating of owners.

The powers of the Vestry referred to are mentioned at page 48 of Chapter IV., and sections 3 and 4 of the Act of 1869 are set out at page 296 of the Appendix. It is only necessary to point out that the limit of the rateable value of the hereditaments to which these sections apply differs in various places. In the Metropolis the rateable value of the hereditaments must not exceed £20; in Liverpool, £13; in Manchester and Birmingham, £10; and in other places the value must not exceed £8.

A Parish Council have greater facilities for the compulsory purchase of land than other Authorities have, and they have the additional privilege of being enabled to hire land compulsorily for allotments. It is to be

<sup>1</sup> See page 138.

expected that application for these powers of a Parish Council will often be made. Another subject for which the powers of a Parish Council will be coveted is the control of borough and other charities. In this matter the interests of the parishes composing the borough or district, as opposed to the interests of the whole borough or district, may have to be safeguarded.

Transfer of  
powers relating  
to rural parishes.

Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough), or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the Council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the Council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish (s. 33 (2)). Before making any order with respect to any charity the Local Government Board are required to consult the Charity Commissioners (s. 33 (7)).

Charities.

Section 14 (3) of the Act does not require that a Parish Council should appoint a majority of the trustees of a non-ecclesiastical parochial charity, but the Bill, as it left the House of Commons, made it obligatory upon the Parish Council to appoint a sufficient number of additional trustees, so that the elective element should always be a majority of the body of trustees. The power of appointment was not confined to charities where there was no elective element. The reference in section 33 seems to have been intended to refer to the obligation which the Bill, as brought from the Commons, laid upon the Parish Council. In the Lords the provision in question was struck out, and the existing enactment inserted, under which it is only where there is no elective element on the body of trustees that the Parish Council may appoint additional members. They are simply permitted and not required to appoint such members, and the number is not to exceed what the Charity Commissioners allow in each case. The effect of section 33, read with section 14 (3), seems to be no more than this, that an order of the Local Government Board may confer upon a Town Council or other Authority, as the case may be, the power of a Parish Council<sup>1</sup> to appoint trustees of a non-ecclesiastical parochial charity (that is the power referred to in section 14 (3)), and that in conferring such a power the Local Government Board may, where a district is divided into wards, direct, if the circumstances seem such as to render it proper to do so, that the appointment be made by the councillors elected for the ward or wards comprising the parish whose charities are dealt with. It will not be obligatory on the Authority to exercise any power of appointment which may be conferred upon

<sup>1</sup> See page 75.

Urban Councils  
and London.  
Charities.

them : but, if they do exercise the power, the number of trustees they may appoint will be such as the Charity Commissioners allow. No restriction is expressly placed upon the discretion of the Commissioners in the matter, but the general intention of section 14 (3) seems to be that the elective members should not be a majority of the whole body of trustees.

In London, parishes only are divided into wards,<sup>1</sup> and the districts under District Boards consist of grouped parishes, the respective Vestries of which elect the members of the District Boards. The provision in section 33 (2) as to districts divided into wards seems generally inapplicable to sanitary districts in the Metropolis. Vestries elected under the Metropolis Management Acts now exercise, as regards charities, the powers and duties which belonged to the open Vestry—*In re Hayle's Estate* (31 L. J., Ch. 612).

### Application of Act to Scilly Islands.

The Local Government Act, 1894, is to be deemed to be an Act touching local government within the meaning of section 49 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), and a provisional order for the Scilly Islands may, on the application of the Council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for giving information to all persons interested, be made accordingly (Local Government Act, 1894, (s. 74).

Section 49 of the Local Government Act, 1888, which is printed at page 362 of the Appendix, authorised the Local Government Board to apply, by means of a provisional order, confirmed by Parliament, the provisions of that Act and of certain other statutes to the Scilly Islands ; and accordingly by a provisional order of the Local Government Board, confirmed by the Local Government Board's Provisional Order, Confirmation (No. 6) Act, 1890 (53 & 54 Vict. c. 176), a Council of the Isles of Scilly was established. The Isles are divided under the order into five civil parishes, for which overseers are appointed. The Council have some powers of a County Council under the order, and they act also as the Rural Sanitary Authority, and the Highway Authority for the Isles. Section 74 of the Local Government Act, 1894, will enable such of the provisions of the Act as may be suitable to the Scilly Islands to be applied to those Islands.

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<sup>1</sup> See page 139.

## CHAPTER IX.

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### *Accounts of District and Parish Councils and Parish Meetings — Form of Accounts — Inspection of Accounts—Audit of Accounts.*

#### DISTRICT AND PARISH COUNCILS AND PARISH MEETINGS.

THE accounts of the receipts and payments of Parish and District Councils, and of Parish Meetings for parishes not having Parish Councils, and their committees and officers, are required to be made up yearly to the thirty-first day of March, or in the case of accounts which are to be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe (s. 58 (1)).

Period to which accounts to be made up.

The accounts of Local Boards and of Improvement Commissioners and of their respective officers, are now made up and balanced to the 25th of March in each year.

Local Boards and Improvement Commissions.

Borough accounts are made up half-yearly to the 25th of March and 29th of September in each year. The audit is also half-yearly.

Boroughs.

The accounts of guardians and their officers and of the overseers and of every collector (which includes an assistant overseer) are required by the General Order for Accounts issued by the Poor Law Board on the 14th of January, 1867, to be made up and balanced to the 25th of March and the 29th of September in each year. These provisions were applicable to the guardians acting as the Rural Sanitary Authority (38 & 39 Vict. c. 55, s. 248).

Guardians and overseers.

Highway Boards, Surveyors of Highways and Boards for the Repair of the Highways make up their accounts yearly to the 25th of March.

Highways.

Section 58 (1) of the Local Government Act, 1894, applies to the accounts of both Urban and Rural District Councils, including boroughs other than county boroughs. The accounts of non-county boroughs will be made up to the 31st of March and 30th of September in each year, and the accounts of other Urban District Councils will be made up once a year to the 31st of March. Rural District Councils and their officers will make up their accounts half-yearly to the same dates as the Town Councils of non-county Boroughs, Parish Councils, and Parish Meetings, and their officers will make up their accounts yearly to the 31st of March. An assistant overseer is, unless appointed by a Board of Guardians, an officer of the Parish

Non-county Boroughs, Urban District Councils, Rural Councils, Parish Councils, Parish Meetings.

Accounts.

Period to which  
to be made up.

Assistant over-  
seer.

Guardians and  
overseers.

Highway  
authorities.

Council (where there is a Parish Council (s. 81 (3) ), and his accounts will therefore be made up yearly to the same date as the accounts of that Council.

The accounts of guardians and their officers and of the overseers and of any assistant overseer will, in a parish not having a separate Parish Council, until the Local Government Board make any order directing otherwise, continue to be made up and balanced to the 25th of March and the 29th of September. Where the transfer to the Rural District Council of the powers of Highway Authorities under section 25 (1) is postponed, the accounts of the Highway Authority will also, until otherwise ordered by the Local Government Board, be made up to the 25th of March in each year.

Probably the Local Government Board will assimilate the period of making up the accounts of officers and authorities not affected by the Act to the dates fixed by the Act for the accounts of other authorities. Under section 73 of the Local Government Act, 1888, the "local financial year" ends on the 31st of March. That year is, under the Act, applicable to the accounts of County Councils, and the same year should apply to the accounts of every Local Authority.

Forms will be  
prescribed.

A form of accounts will have to be prescribed by the Local Government Board for the accounts of Parish and District Councils, and of Parish Meetings, and of their respective committees and officers.

Inspection of  
Accounts.

Every parochial elector of a rural parish is entitled at all reasonable times, without payment, to inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the Parish Council of the parish or Parish Meeting, or of the District Council of the district in which the parish is situated (s. 58 (4) (5) ).

The power of inspection conferred by this provision is in addition to the power to inspect accounts and other documents deposited seven clear days before the audit, *see* next page.

### *Audit of Accounts.*

District auditor.

The accounts of Parish and District Councils and of Parish Meetings for parishes not having Parish Councils, and their committees and officers, except accounts audited by the auditors of a Borough (but inclusive of the accounts of a joint committee appointed by a Borough Council with another Council not being a Borough Council) will be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of Urban Sanitary Authorities and their officers, and to all matters incidental thereto and consequential thereon, will apply accordingly, except that in the case of the accounts of Rural District Councils, their committees and officers, the audit is to be half-yearly instead of yearly (s. 58 (2) ).

Sections 247, 249, and 250 of the Public Health Act, 1875, which relate to the audit of accounts of Urban Sanitary Authorities and

their officers are printed at pages 323 to 325 of the Appendix. The accounts are to be audited as soon as can be after the 31st of March, and, where the accounts are made up half-yearly, the 30th of September in each year by the District Auditors appointed by the Local Government Board under the District Auditors Act, 1879 (42 & 43 Vict. c. 6).

The Authority whose accounts are audited, must pay a stamp duty for accounts thus audited.

The District Auditor will give notice to the Authority of the time and place at which the audit will be made, and after receiving that notice the Authority must give at least fourteen days' notice of that time and place, and also of the deposit of accounts they are required to make, by advertisement in one or more local newspapers.

A copy of the accounts, duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers, and receipts, mentioned or referred to in such accounts, must be deposited in the office of the Authority, and must be open during office hours to the inspection of all persons interested, for seven clear days before the audit, and all such persons may take copies or extracts free of charge.

For the purpose of the audit the District Auditor may, by summons, in writing, require the production of all books, deeds, accounts, &c., that he may deem necessary, and may require any person holding or accountable for such books, &c., to appear before him and sign a declaration as to their correctness.

Any ratepayer or owner of property in the parish or district may be present at the audit, and may make any objection to the accounts before the District Auditor, and such ratepayers and owners have the same right of appeal against allowances by a District Auditor as is given in the case of disallowances.

The District Auditor must disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment; he must charge against any person accounting the amount of any deficiency incurred by the negligence or misconduct of that person, or of any sum which ought to have been, but is not, brought into account by that person. In every case of disallowance or surcharge, he must certify the amount due from such person, and on application by any party aggrieved, must state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made.

Any person aggrieved by disallowance, may apply to the Queen's Bench Division of the High Court for a writ of *certiorari*, to remove the disallowance into that court; or such person may appeal to the Local Government Board against the auditor's decision. Instructions have been issued by the Local Government Board for the guidance of persons desiring to appeal. They are printed at pages 417 and 418 of the Appendix.

Dates of audit.

Stamp duty.

Deposit of accounts, &c.

Production of books, &c.

Objection to items.

Certificate of auditor.

Appeal against auditor's decision

Audit of  
accounts.

Payment of  
sums certified.

Report of  
auditor.

Audit of  
accounts of  
guardians,  
union officers,  
overseers and  
assistant  
overseers.

Audit of  
accounts of  
certain boroughs.

Rules as to  
publication of  
notice of audit,  
&c.

Audit of  
accounts of  
superseded  
authorities.

Every sum certified to be due from any person by the District Auditor, must be paid by such person to the Treasurer of the Authority within fourteen days after the same has been so certified, unless there is an appeal. If the sum is not paid, the Auditor may recover the same.

Within fourteen days after the completion of the audit, the District Auditor must report on the accounts audited, and deliver his report to the clerk of the County Council, who must deposit the same in their office and must publish an abstract of the accounts in one or more local newspapers.

The accounts of guardians and of union officers and of overseers and of any assistant overseer of a parish not having a separate Parish Council, will continue to be audited by the district auditor under sections 32 to 36 of the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101); sections 5 to 9 of the Poor Law Audit Act, 1848 (11 & 12 Vict. c. 91); sections 9 to 11 of the Poor Law Amendment Act, 1849 (12 & 13 Vict. c. 103); sections 5 and 6 of the Poor Law Amendment Act, 1866 (29 & 30 Vict. c. 113); the District Auditors Act, 1879 (42 & 43 Vict. c. 6); and the general order for accounts of the Poor Law Board dated 14th of January, 1867. In the main the provisions as to the audit of union accounts are very similar to the provisions of the Public Health Act, 1875, relating to the audit of accounts of urban sanitary authorities, but notices of the audit are published by the auditor, and no abstract of accounts is required to be published by the guardians, overseers, or other officer whose accounts are audited.

In a few cases the accounts of Municipal Corporations are, under their local Acts, audited by district auditors. The accounts in such cases will continue to be so audited.

The Local Government Board may, with respect to any audit to which section 58 of the Local Government Act, 1894, applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor (s. 58 (3)).

This provision will enable the Local Government Board to relax such of the requirements relating to publication of the notice of the audit, and of the abstract of accounts as might by reason of the expense involved in the publication, be burdensome to small parishes without any corresponding advantage to such parishes.

There does not appear to be any enactment requiring the report of the auditor on the audit of accounts of an urban sanitary authority to be published.

The accounts of all receipts and expenditure before the appointed day are to be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had,



in like manner as nearly as may be as if the Local Government Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day (s. 85 (2) ).

Under this provision the authorities newly elected under the Act in or after November next, will start free and unfettered so far as the accounts of the receipts and expenditure of their predecessors are concerned. The first audit of the accounts of the newly elected authorities will take place as soon as can be after the 31st of March, 1895.

## CHAPTER X.

### *Transfer of Powers, General Provisions Respecting—Savings—Determination of Questions—Adjustment of Property and Liabilities—Existing By-laws—Transfer of Powers of Defaulting Rural District Councils to County Councils—Existing Officers.*

#### GENERAL PROVISIONS TAKING EFFECT ON TRANSFER OF POWERS.

Transfer of  
property, debts,  
&c.

WHERE any powers<sup>1</sup> and duties<sup>1</sup> are transferred by the Local Government Act, 1894, from one Authority to another Authority —

- (1) All property<sup>1</sup> held by the first Authority for the purpose or by virtue of such powers and duties will pass to and vest in the other Authority, subject to all debts and liabilities affecting the same; and
- (2) The latter Authority will hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if the Act had not passed, so far as the same are not modified by or in pursuance of the Act; and
- (3) All debts and liabilities<sup>1</sup> of the first Authority incurred by virtue of such powers and duties will become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if the Act had not passed (s. 67).

This provision applies generally to all transfers of powers and duties under the Act, whether taking place at the appointed day or subsequently. In effect the Authority to whom the powers and duties are transferred takes over all the property, relating to those powers and duties, of the Authority from whom the powers and duties are transferred, upon the same terms and conditions, and subject to the same obligations, as applied to the property before its transfer.

Existing con-  
tracts, deeds,  
&c.

All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer, and affecting any of the transferred powers, duties, liabilities, debts, or property, will be of as full force and effect against or in favour of the Council or Parish Meeting to whom the transfer is made, and may be enforced as fully and effectually as if, instead of the Authority from whom the transfer is made, the Council or Parish Meeting had been a party thereto (s. 88 (2)).

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<sup>1</sup> See the definitions of these expressions, pages 7 and 8.

Nothing in the Act is to prejudicially affect any securities granted before the passing of the Act on the credit of any rate or property transferred to a Council or Parish Meeting; and all securities, as well as all unsecured debts, liabilities, and obligations incurred by any Authority in the exercise of any powers or in relation to any property transferred from them to a Council or Parish Meeting are to be discharged, paid, and satisfied by that Council or Parish Meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for the Act, that rate may continue to be levied and that power to be exercised either by the Authority, who otherwise would have levied or exercised the same, or by the transferee, as the case may require (s. 86 (1)).

Existing securities and discharge of debts.

Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for its enforcement taken, in like manner as nearly as may be as if the Act had not passed (s. 85 (1)).

Current rates.

An Improvement Commission become, under section 21, an Urban District Council, and are consequently subject to the provisions of the Act with respect to the qualification of electors and members of Urban District Councils and with respect to the mode of election; and, as an Improvement Commission, they are practically merged in the new Urban District Council, who exercise all their functions. To this general disappearance of Improvement Commissions an exception is made where a Commission are also a Harbour Authority. In that case the Commission are continued unchanged as a Harbour Authority, and will be quite distinct from the Urban District Council, who will succeed to all their other functions.

Improvement Commissions.

Continuance of Harbour Authorities.

Where any Improvement Commission affected by the Act have any powers, duties, property, debts, or liabilities in respect of any harbour, the Improvement Commission will continue to exist and be elected for the purpose of the harbour, and will continue as a separate body, as if the Act had not passed, and the property, debts, and liabilities are to be apportioned between the District Council for the district and the Commission so continuing, and the adjustment arising out of the apportionment is to be determined in manner provided by the Act (s. 65).

It is made the duty of every Authority whose powers, duties, and liabilities are transferred by the Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by the Authority (s. 86 (2)).

Duty of existing authorities to liquidate debts.

If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under the Act to any Parish Council, Parish Meeting, or District Council, or any property is or is not vested in the Parish Council, or in the chairman

Determination of questions as to transfers.

Determination of questions as to transfer.

and overseers of a rural parish, or in a District Council, that question, without prejudice to any other mode of trying it, may, on the application of the Council, Meeting, or other Local Authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of court, may be directed by the Court; and the court, after hearing such parties and taking such evidence (if any) as it thinks just, are to decide the question. An appeal lies, with the leave of the High Court or Court of Appeal, but not otherwise, to the Court of Appeal against any decision of the High Court under the section (s. 70 (1) (3)).

There is no definition of "Local Authority" in the Act, but it apparently means in this provision the authority whose powers, duties, or liabilities are in question.

Adjustment of property and liabilities.

Where any adjustment is required for the purpose of the Act, or of any order, or thing made or done under the Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by the Act, or such scheme, order, or thing, of the parties to the agreement.

The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board; but where any of the authorities interested is a Board of Guardians, any such agreement, so far as it relates to the joint use of any property, is to be subject to the approval of the Local Government Board.

In default of an agreement, and as far as any agreement does not extend, the adjustment is to be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator is empowered to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

Funds out of which payment is to be made.

Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses<sup>1</sup> of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board,

<sup>1</sup> See pages 165 to 169.

direct, and if it is a capital sum the payment is to be a purpose for which the authority may borrow under the Acts relating to the authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

Funds out of which payment is to be made.

Any capital sum paid to any authority for the purpose of any adjustment is to be treated as capital, and applied with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied (s. 68).

Application of capital sums.

Where there is no agreement the adjustment will be referred to the arbitrator, and also, so far as an agreement does not extend there will be a reference to arbitration. The Arbitration Act, 1889, is printed at page 366 of the Appendix. The reference under that Act is to a single arbitrator, who can take evidence on oath. His award is final and binding on all parties. A Parish Council can under section 68 borrow in order to pay a capital sum for the purpose of adjustment without the consent of the Parish Meeting or County Council.

If at the time when any powers, duties, liabilities, debts, or property are by the Local Government Act, 1894, transferred to a Council or Parish Meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto, the same shall not be in anywise prejudicially affected by the passing of the Act, but may be continued, prosecuted, and enforced by or against the Council or Parish Meeting as successors of the authority in like manner as if the Act had not been passed (s. 88 (1)).

Pending proceedings.

All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if the Act had not passed, and any legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of the Act (s. 85 (3)).

All such bye-laws, orders, and regulations of any authority, whose powers and duties are transferred by the Local Government Act, 1894, to any Council, as are in force at the time of the transfer, will, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that Council, and may be revoked or altered accordingly (s. 87).

Existing bye-laws and regulations.

This provision has a general application to every transfer of powers under the Act, and whilst it will save many authorities the trouble of making bye-laws, orders, or regulations under the transferred powers, it will not prevent an authority altering or revoking any bye-law, order, or regulation, if they think it expedient to do so. Where a Parish Council or Urban District Council for instance succeed under the Act to the Commissioners for Baths and Washhouses, or for

Public Libraries, any bye-laws or regulations which had respectively been made by the Commissioners would continue in force. The provision in section 87 is of special importance to Rural District Councils where their predecessors had made any bye-laws and regulations under the Public Health Acts, and the Dairies, Cowsheds, and Milkshops Orders of 1885 and 1886.

#### DEFAULTING RURAL DISTRICT COUNCIL.

The provisions of the Local Government Act, 1894, relating to the transfer of powers, duties, and liabilities, to which reference has been made, are applicable only to those cases where the transfer takes place *under the Act*, and the provisions have no application to cases where the powers of a defaulting District Council are by a *resolution under the Act* transferred to a County Council. A distinction is properly drawn between a transfer which is intended to be made once for all for the purpose of simplifying local government by the concentration of powers and duties in fewer authorities, and a transfer which is made for the purpose of securing that a parish should not be prejudiced by a neglect of duty on the part of a District Council. In the latter case there is no reason why a transfer should have effect to any greater extent than is necessary to secure the object with which it was made. Special provisions are, therefore, applicable to the transfer of powers from a District Council to a County Council. It is only in the case of a defaulting Rural District Council that such a transfer can take place<sup>1</sup> (ss. 16 (1), 26 (4)).

Where the powers of a District Council are by virtue of a resolution under the Local Government Act transferred to a County Council, the following provisions have effect :—

- (a.) Notice of the resolution of the County Council by virtue of which the transfer is made must be forthwith sent to the District Council and to the Local Government Board :
- (b.) The expenses incurred by the County Council will be a debt from the District Council to the County Council, and will be defrayed as part of the expenses of the District Council in the execution of the Public Health Acts, and the District Council will have the like power of raising the money as for the defraying of those expenses :
- (c.) The County Council for the purpose of the powers transferred may on behalf of the District Council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the District Council might have borrowed for the purpose of those powers :
- (d.) The County Council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan

<sup>1</sup> See pages 152 and 158.

Transfer of  
Powers.  
Existing bye-  
laws and  
regulations.

Transfer of  
powers to  
County Council.

Provisions as to  
County Council  
acquiring  
powers of  
District Council.

with the interest thereon is to be paid by the District Council in like manner, and the charge is to have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the District Council :

Defaulting  
District Council.

- (e.) The County Council are required to keep separate accounts of all receipts and expenditure in respect of the transferred powers :
- (f.) The County Council may by order vest in the District Council all or any of the powers, duties, property, debts, and liabilities of the County Council in relation to any of the transferred powers, and the property, debts, and liabilities so vested are to be deemed to have been acquired or incurred by the District Council for the purpose of those powers (s. 63 (1)).

Transfer of  
powers to  
County Council.

These provisions, as stated before, have application to a Rural District Council only, as the power to complain to or petition the County Council where a District Council make default is given to a Parish Council only.

The mode of defraying the expenses of a Rural District Council under the Public Health Acts have been explained in connection with District Councils on pages 166 and 167, and it is only now necessary to point out that the modifications provided by section 29 of the Local Government Act, 1894, with respect to the expenses of a Rural District Council under the Act, are not made applicable by section 63 (1), where the expenses of the County Council have to be defrayed. It follows that expenses of the County Council, which might be special expenses, would have to be levied in the manner provided by section 230 of the Public Health Act, 1875, and the Local Government Board would have no power to direct that such special expenses should be raised as general expenses. Where the amount to be raised was not less than £10, or than what a penny rate would amount to, a separate rate to which tithes and agricultural and other land would be assessed at one-fourth of the full net annual value would accordingly have to be levied under section 230 of the Act of 1875.

Sections 233 to 239 of the Public Health Act, 1875, which relate to the borrowing powers of a Rural District Council are reprinted at pages 321 to 323 of the Appendix.

The provision in paragraph (f) of section 63 (1) will enable the County Council to restore to the Rural District Council their full powers when the circumstances which gave rise to the transfer of powers to the County Council have changed. It is not contemplated that the Rural District Council should be permanently relieved of their powers and duties with respect to the subject matter of the transfer.

Restoration  
of powers to  
District Council.

#### EXISTING OFFICERS.

Where the powers and duties of any authority other than justices are transferred by the Local Government Act, 1894, to any Parish or

Transfer of  
Powers.

Existing officers.

District Council, the officers of that authority will become the officers of that Council (s. 81 (1)). Among the officers who will thus become officers of the Parish Council may be mentioned, a paid surveyor of highways where the County Council postpone the transfer of highway powers to the District Council under section 25 (1), an existing vestry clerk, any assistant overseer not appointed by a Board of Guardians, and officers appointed by authorities executing any of the adoptive Acts. A Rural District Council will take over the services of the officers of the Rural Sanitary and Highway Authorities to whose duties and powers they succeed.

An assistant overseer appointed by a Board of Guardians will not become an officer of the Parish Council, but he will continue to hold office under the Board of Guardians, but the power of the guardians to make any future appointment to the office ceases after the appointed day (s. 81 (6)).

Continuance in  
office on former  
terms.

Every such officer, vestry clerk, and assistant overseer, as above mentioned, is to continue to hold his office by the same tenure, and upon the same terms and conditions as he previously held it, and while performing the same duties is to receive not less salary or remuneration (s. 81 (5)).

In some instances the new arrangements under the Act may render the services of an officer unnecessary to the Council to whom the powers and duties of the authority whose officer he was are transferred<sup>1</sup> or his duties may be affected by the transfer, and his emoluments decreased. Where that is the case compensation will be payable to the officer prejudicially affected by the Local Government Act, 1894.

Compensation.

Section 120 of the Local Government Act, 1888, which relates to compensation to existing officers, will apply in the case of existing officers affected by the new Act, whether officers mentioned in section 81 or not, as if references in that section of the Act of 1888 to the County Council were references to the Parish Council, or the District Council, or Board of Guardians or other authority whose officer the person affected is when the claim for compensation arises as the case may require. All expenses incurred under this provision by a District Council are to be paid as general expenses of the Council, and by a Board of Guardians are to be paid out of their common fund, and by any other authority are to be paid out of the fund applicable to payment of the salary of the officers affected (s. 81 (7)).

This provision seems wide enough to include every officer affected by the Act, whether he does or does not become an officer of the Parish or District Council, so long as his pecuniary loss is caused by the Local Government Act, 1894, or anything done in pursuance of, or in consequence of the Act. There are no such limiting words in

<sup>1</sup> See page 151.



the Act of 1894, as occur in section 120 (1) of the Local Government Act, 1888, which worked injustice in certain cases where an officer suffered direct pecuniary loss, although the powers of the authority whose officer he was were not transferred under the Act to the County Council.

Existing officers.  
Compensation.

Section 120 of the Local Government Act, 1888, is reprinted at page 365 of the Appendix. The effect of its principal provisions is as follows :—

In determining the amount of compensation regard must be had to all the circumstances of the case, and in particular to the conditions on which the officer's appointment was made, to the nature of his office, to the duration of his service, to any additional emoluments which he acquires under or in consequence of the Local Government Act, 1894, and to any emoluments which he might have acquired if he had not refused to accept any office offered by any Council or other body acting under the Act. The compensation must not exceed the amount which under the Acts and rules relating to the Civil Service is paid to a person on abolition of office.<sup>1</sup>

An officer entitled to compensation must deliver to the authority whose officer he is when the claim arises a claim signed by him, setting forth the whole amount received and expended by him or his predecessors in office in every year during the period of five years next before the passing of the Local Government Act, 1894, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the emoluments have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835 (5 & 6 Will. IV. c. 62), that the same is a true statement according to the best of his knowledge, information, and belief. The declaration must bear a stamp of half-a-crown.

Mode of claiming  
compensation.

The claimant, if required by any member of the authority, must attend at a meeting of the authority, and answer upon oath, which any Justice present may administer, all questions asked by any member of the authority touching the matters set forth in his claim, and must further produce all books, papers, and documents in his possession, or under his control, relating to the same.

The claimant, if aggrieved by the decision of the authority, may, within three months after the decision, appeal to the Treasury against that decision, and if at least one-third of the members of the authority subscribe a protest against the amount of the compensation granted as being excessive, any subscriber to such protest may also, within the same period, appeal to the Treasury, whose decision in either case is final.

Appeal to the  
Treasury.

If a person receiving compensation under these provisions is appointed to any office under the Local Government Act, 1894, the compensation will be wholly or partially suspended during his tenure of such office.

Suspension of  
compensation.

<sup>1</sup> See page 419.

## CHAPTER XI.

*Areas and Boundaries—Boundary Commissions—Duties and Powers of County Council—Application of Powers to different Cases—Names of Parishes and Districts—Division of Parish into Wards—Constitution of New Urban Districts—Copies of Orders—Expenses of Local Inquiries—County Council to bring Act into operation.*

### BOUNDARY COMMISSIONS.

Evils to be remedied.

DIFFICULTIES arising from the confused overlapping of areas of administration formed for different purposes, have always been the great stumbling block in the way of local government reform. Several Commissions have inquired into local boundaries during the past sixty years, but the practical result of their labours has not been great. Some useful work in the adjustment of inconvenient parochial boundaries has been done under the Divided Parishes Acts, and the more glaring anomalies rectified; but these Acts were not adapted for the purpose of remedying a system under which areas for highway, sanitary, and municipal administration had been formed with little regard to parochial boundaries. In the case of counties, the many instances where the county boundary intersected parishes and other areas of local government caused an ever increasing inconvenience, as the powers of county authorities were widened and increased under numerous Acts of Parliament; but, the sentiment in favour of the ancient boundaries of counties has always been strong and the first serious attempt to grapple with the subject was made in connection with the legislation of 1888.

Boundary Commission of 1887.

Prior to the reform of county government effected in that year, a Boundary Commission were appointed under the Local Government (Boundaries) Act, 1887 (50 & 51 Vict. c. 61), to inquire with respect to each county in England and Wales—

- (a) As to the best mode of so adjusting the boundaries of the county and of other areas of local government as to arrange that no union, borough, sanitary district, or parish should be situate in more than one county; and
- (b) As to the best mode of dealing with parts of the county which were wholly or nearly detached from the county; and
- (c) As to the best mode of dealing with the cases where a borough

was not an urban sanitary district, and was wholly or partly comprised in a sanitary district ; and

Boundary Commission of 1887.

- (d) As to any alteration of boundaries, combination of areas, or administrative arrangements incidental to or consequential on any alteration which they might recommend in the boundaries of any county, union, borough, sanitary district, or parish.

In making their recommendations the Boundary Commissioners were to have due regard to financial and administrative considerations.

The report of the Commissioners, which was made to Mr. Ritchie, the President of the Local Government Board, on the 5th of July, 1888, contains numerous detailed schemes suggesting the mode in which the various counties, unions, and urban and rural sanitary districts and parishes requiring adjustment should be dealt with.

Report of Commissioners.

Section 53 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), required every report of the Commissioners to be laid before the Council of any administrative county or county borough affected by that report, and made it the duty of the Council to take into consideration such report, and to make such representations to the Local Government Board as they should think expedient for adjusting the boundaries of their county, and of other areas of local government partly situate in their county, with a view of securing that no such area should be situate in more than one county. So far as urban sanitary districts were concerned, the Act itself provided, by section 50 (1), that any such district situate in more than one county should be deemed to be within that county which contained the largest portion of the population of the district according to the census of 1881. The automatic alteration of the boundaries of counties for the purpose of preventing urban sanitary districts being in more than one county was to a certain extent a step in the right direction ; but where parishes were partly comprised in urban districts it had, in many instances, the effect of placing a parish, which was formerly in one county, into two counties. Other important provisions of the Act conferred powers which, where advantage has been taken of them, have furnished an economical means of adjusting areas and boundaries. The difficulty in the way of a more general rectification of boundaries does not spring so much from defects in the machinery of the Act of 1888, as from local indifference or opposition to setting it in motion. With some modifications made for the purpose of expediting its operation and of making it more generally effective, this machinery is accordingly rendered applicable to the adjustment of areas and boundaries under the Local Government Act, 1894. The objects which County Councils are to have in view are set out in some detail in the new Act.

#### DUTIES AND POWERS OF COUNTY COUNCIL.

For the purpose of carrying the Local Government Act, 1894, into effect in the case of—

Cases to be considered.

Cases to be considered by County Council.

- (a) Every parish and rural sanitary district which at the passing of the Act was situate partly within and partly without an administrative county ; and
- (b) Every parish which at the passing of the Act was situate partly within and partly without a sanitary district ; and
- (c) Every rural parish which had a population of less than 200 according to the census of 1891 ; and
- (d) Every rural sanitary district which at the passing of the Act had less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district ; and
- (e) Every rural parish which is co-extensive with a rural sanitary district :

every County Council is required to forthwith take into consideration every such case within their county and, as soon as practicable, in accordance with section 57 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), to cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect the Act in accordance with the following provisions, namely :—

- (i.) The whole of each parish, and, *unless the County Council for special reasons otherwise direct*, the whole of each rural district is to be within the same administrative county ;
- (ii.) The whole of each parish is, *unless the County Council for special reasons otherwise direct*, to be within the same county district : and
- (iii.) Every rural district which will have less than five elected councillors is, *unless for special reasons the County Council otherwise direct*, to be united to some neighbouring district or districts (s. 36 (1)).

The full significance of the task which is thus set before County Councils will be better understood when the machinery placed at their disposal has been explained.

#### I.—THE POWERS AND PROCEDURE OF COUNTY COUNCILS WITH RESPECT TO AREAS AND BOUNDARIES.

The County Council must proceed under section 36 (1) of the Local Government Act, 1894, although no such proposal as is mentioned in section 57 of the Act of 1888 has been made. This is an important distinction, for, under that section, which is printed at page 363 of the Appendix, the County Council were to be satisfied that a *prima facie* case was made out as respects any county district not a borough, or as respects any parish for a proposal for all or any of certain specified things before they proceeded to make any order ; whilst, under subsection (1) of section 36 of the new Act, it is, without exception, obligatory upon the County Council, although no proposal has been made, to take every such case, as is mentioned in the subsection, into consideration, and cause inquiries and notices to

Obligation of County Council to proceed.

be given with a view to making such orders under the Act as they think most suitable. The initiative is conferred on the County Council alone, and they *must* proceed as directed by the Act.

It is only for the special cases mentioned in section 36 (1) of the Local Government Act, 1894, that the proposal referred to in section 57 of the Act of 1888 is dispensed with, and in other cases to which section 57 applies a *prima facie* case to the satisfaction of the County Council must be made out. Any of the following proposals may be made as respects any urban sanitary district not a borough, any rural sanitary district, or any parish under section 57 of the Local Government Act, 1888:—

Proposals under  
Local Govern-  
ment Act, 1888,  
s. 57.

- (a) The alteration or definition of its boundary ;
- (b) Its division or union with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish ;
- (c) The conversion of the district or part of the district, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of the district from one district to another, and the formation of new urban or rural districts ;
- (d) The division of an urban district into wards ; and
- (e) The alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any District Council, or of the apportionment of such members among the wards.

Even after being satisfied that a *prima facie* case has been made out, the County Council are not obliged, under section 57 of the Act of 1888, to proceed any further, but they may, if they please, cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government Department as may be prescribed by the Local Government Board, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, *may* make an order for the same accordingly.

Inquiries.

With the principal and important exception that the County Council are, under section 36 (1) of the new Act, required to take action, and *must* therefore cause inquiries to be made and notices to be given, and make any orders that may be necessary for the purposes of the subsection, the procedure to be followed is that generally laid down by section 57 of the Act of 1888. The other modifications in procedure will be mentioned in their proper place.

Section 57 of the Local Government Act, 1888, enabled a County Council to deal with the matters mentioned therein, but the application of the section was subject to the serious defect that it made no express provision to meet cases where an area of local government was situated in more than one county. As any one County Council

Areas in two or  
more counties.

Areas in two or more counties.

had no jurisdiction where a parish or other area was not wholly in their county to deal with that area, it was considered that two or more County Councils interested could not confer, by delegation, on any joint committee of the respective Councils any authority under the section. This defect has been remedied by the new Act, which provides that where any of the areas referred to in section 57 of the Local Government Act, 1888, is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the Councils of those counties<sup>1</sup> shall, *subject to the terms of delegation*, be deemed to have and to have always had power to make orders under that section with respect to that area; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the Councils of those counties shall act under section 36 of the Local Government Act, 1894, and if any of those Councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed are to act as the joint committee. Any question arising as to the constitution or procedure of any such joint committee is, if the County Councils concerned fail to agree, to be determined by the Local Government Board (s. 36 (11)).

Terms of delegation.

The County Councils appointing a joint committee may regulate the terms of the delegation of their powers to that committee, as for instance, by directing that the acts of the committee should require their approval.

County boroughs.

In a county borough the jurisdiction conferred on County Councils as to areas and boundaries will, so far as is applicable, be exercised by the Town Council, and that Council may join with the Council of an administrative county in forming a joint committee where any area to be taken into consideration is situated partly in a county borough and partly in an administrative county.

Report of Boundary Commissioners

For the purpose of assisting County Councils and joint committees in their labours every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, is to be laid before the Council of any administrative county or borough affected by that report, and before any joint committee of County Councils, and it is made the duty of the Councils and joint committees to take the reports into consideration before framing any order under the powers conferred on them under the Local Government Act, 1894.

Division and other alterations of parishes.

Where the alteration of the boundary of any parish, or the division of a parish, or the union of the whole or of part of a parish with

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<sup>1</sup> A joint committee of County Councils is appointed under section 81 of the Local Government Act, 1888.

another parish, seems expedient for any of the purposes of the Local Government Act, 1894, provision for such alteration, division, or union may be made by an order of the County Council confirmed by the Local Government Board under section 57 of the Local Government Act, 1888 (s. 36 (8) ).

Division and  
and other altera-  
tion of parishes.

The County Council may also, by their order, where the alteration of a poor law union seems expedient by reason of any of the provisions of the new Act, provide for such alteration in accordance with section 58 of the Local Government Act, 1888,<sup>1</sup> or otherwise, but this provision is not to affect the powers of the Local Government Board with respect to the alteration of unions (s. 36 (6) ).

Poor Law  
Unions.

Section 58 of the Act of 1888 enables the Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county, instead of dissolving the union, to provide by order that the union shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and to make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union, or two or more unions. Whilst the Local Government Board will retain this and their other powers under the Poor Law Acts<sup>2</sup> to alter or dissolve a union, the County Council will have the concurrent power of altering a poor law union in the manner provided by section 58 of the Act of 1888 or *otherwise*; but the power of the County Council can be exercised only where it is expedient to alter a union by reason of any of the provisions of the Local Government Act, 1894, and an order exercising the power will require the confirmation of the Local Government Board.<sup>3</sup>

Any order made by a County Council in pursuance not only of the provisions of section 36, to which reference has been previously made in this chapter, but of Part III. generally of the Local Government Act, 1894, is by section 36 (10) to be, subject to the provisions of the Act, deemed to be an order under section 57 of the Local Government Act, 1888. This provision applies to the following orders, which may be made by a County Council, and to which reference has been made in previous chapters, namely:—

Application of  
Local Govern-  
ment Act, 1888,  
s. 57 to County  
Council orders.

- (1.) An order under section 36 (3) for the application to different parts of a parish divided by the Act of the provisions of the Act with respect to the appointment of trustees or beneficiaries

<sup>1</sup> See page 364 of the Appendix.

<sup>2</sup> See the Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76), s. 32; the Poor Law Amendment Act, 1844 (7 & 8 Vict. c. 101), s. 66; the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122), s. 4; and the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), s. 11.

<sup>3</sup> See page 193.

Application of  
Local Govern-  
ment Act to  
County Council  
Orders.

of a charity (*see* pages 11, 75 and 76), and for the custody of parish documents (*see* page 72).

- (2.) An order under section 37 that the consent of a Parish Meeting held for a part of a parish shall be required for any acts or class of acts of the Parish Council affecting the property or rights of that part (*see* page 20).
- (3.) An order under section 38 for grouping parishes or for dissolving a group of parishes under a common Parish Council (*see* page 36).
- (4.) An order under section 39 for the election (*see* page 37), or for the dissolution (*see* page 38) of a Parish Council.

Period for  
making orders.

Every County Council must, within two years after the passing of the Act, or within such further period as the Local Government Board may allow, either generally or with reference to any particular matter, make such orders under section 36 as they deem necessary for the purpose of bringing the Act into operation, and after the expiration of the two years or further period the powers of the County Council for that purpose will be transferred to the Local Government Board, who may exercise those powers (s. 36 (13)). The two years allowed will expire on the 5th of March, 1896, and that date will, subject to any extension of the period of two years by the Local Government Board, be the last day on which the County Council may make orders for the purpose of section 36; but this limiting provision in subsection 13 does not express the intention of the Local Government Act, 1894, with respect to the period to be taken in making the general arrangements contemplated by section 36.

A County Council are required for the purposes of subsection 1 of section 36 to cause inquiries to be made, and notices to be given as soon as practicable in accordance with section 57 of the Local Government Act, 1888, and it is clearly intended that boundaries and other necessary matters should be dealt with before the appointed day in order that Parish Councils, Parish Meetings, and other authorities may, so far as possible on that day, assume their functions for parishes and other areas, as those areas are eventually to be constituted; but on the other hand it may not in all instances be practicable to take every case into consideration before the appointed day, nor is it contemplated by the Act that no changes subsequent to the appointed day will be necessary.

Parish Council  
or Meeting may  
appear at  
Inquiries.

In the case where an order for the alteration of the boundary of any parish or the division of any parish, or the union of any parish or of any part, with another parish is proposed to be made after the appointed day, notice of the proposed order must, a reasonable time before it is made, be given to the Parish Council of that parish, or if there is no Parish Council, to the Parish Meeting, and that Parish Council or Parish Meeting, as the case may be, will have the right to appear at any inquiry held by the County Council with reference to the order, and will be at



liberty to petition the Local Government Board against the confirmation of the order (s. 36 (7)).

When an order has been made by a County Council under section 57 (1) of the Local Government Act, 1888, certain subsidiary provisions of that section have to be complied with.

Notices of provisions of order.

Notice of the provisions of the order must be given, and copies supplied in the manner prescribed by the Local Government Board, and otherwise as the County Council think fit (Local Government Act, 1888, s. 57 (2)).

Certain orders of the County Council mentioned below do not require submission to or confirmation by the Local Government Board, but come into operation upon being finally approved by the County Council (subject in the case of No. 7 to the approval of the Charity Commissioners being given), namely—

Orders not requiring confirmation.

- (1.) An order under section 57 of the Local Government Act, 1888, relating to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a District Council, or of the apportionment of the members among the wards ;
- and the following orders under the Local Government Act, 1894 ;
- (2.) A grouping order (*see* page 36) ;
- (3.) An order establishing a Parish Council (*see* pages 28 and 37) ; or
- (4.) Dissolving a Parish Council (*see* page 38) ; or
- (5.) Dissolving a group of parishes (*see* page 36) ;
- (6.) An order relating to the custody of parish documents (*see* pages 72 and 73) ; or
- (7.) Requiring the approval of the Charity Commissioners (*see* pages 11, 75 and 76) ; and
- (8.) An order requiring the consent of the Parish Meeting for any part of the parish to any act or class of acts of the Parish Council (*see* page 20).

In any other case the order is required by subsections 3 to 6 of section 57 (3) of the Act of 1888 to be submitted to the Local Government Board ; and if within [*six weeks*<sup>1</sup>] after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the Council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish [or any Board of Guardians affected by an order under Part III. of the Local Government Act, 1894<sup>2</sup>], petition the

Orders requiring confirmation.

Petitions against orders of County Council.

<sup>1</sup> See Local Government Act, 1894, s. 41.

<sup>2</sup> *Id.* s. 36 (10). See page 191 as to orders under Part III. of the Act.

Local Government Board to disallow the order, that Board are to hold a local inquiry, and determine whether the order is to be confirmed or not.

Confirmation by  
Local Govern-  
ment Board.

If any such petition is not presented, or being presented is withdrawn, the Local Government Board must confirm the order. A petition of county electors could only be withdrawn with the concurrence of all the petitioners ; but of course, if the period of six weeks had not expired, there is no reason why a new petition should not be presented by the requisite number of petitioners within that period. A petition may be withdrawn before or after the expiration of the period of six weeks, so long as the withdrawal takes place before the holding of the local inquiry by the Local Government Board.

Order may be  
modified.

The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

An order, when confirmed by the Local Government Board, must be forthwith laid upon the table of both Houses of Parliament, if Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

" Prescribed "  
notices, &c.

On the 14th September, 1889, the Local Government Board issued an order prescribing the notices and other procedure to be followed by County Councils under section 57 of the Act of 1888. This Order, which is printed at page 374 of the Appendix, is generally in force, and applies to the proceedings of County Councils in making such orders under the Local Government Act, 1894, as are deemed to be orders under section 57 of the former Act (*see* page 191) ; but for 1894 a special procedure is to be observed.

Special provi-  
sions for 1894.

The Local Government Board are directed to make regulations for expediting and simplifying the procedure under section 57 of the Local Government Act, 1888, in all cases in the year 1894, for the purpose of bringing the Local Government Act, 1894, into immediate operation, and those regulations may dispense with the final approval of an order by the County Council in cases where the prescribed notice of the proposed order has been given before it is made by the County Council (s. 80 (2) ).

Under this provision, regulations addressed to County Councils were issued on the 22nd March, 1894, and regulations addressed to Town Councils of County Boroughs were issued on the 27th April, 1894. The Regulations which are printed at pages 383 and 408 of the Appendix govern the proceedings of Committees and Joint Committees as well as the proceedings of the Councils to whom they are addressed.

Validity of  
confirmed orders

An order under section 57 of the Local Government Act, 1888, *confirmed* by the Local Government Board, is at the expiration of six months from confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the

legality of the order is to be entertained in any legal proceeding whatever.

Validity of confirmed orders.

This provision will apply to orders made under section 57 of the Act of 1888, and also to orders under the new Act deemed to be orders under that section ;<sup>1</sup> but only such orders as require confirmation and are confirmed by the Local Government Board will be within its scope. If it is desired to call in question the legality of a confirmed order proceedings must be taken before the expiration of six months from the date of confirmation.

Where an alteration of any area is made by the Local Government Act, 1894, an order for any of the matters mentioned in section 59 of the Local Government Act, 1888, may, if it appears to the County Council desirable, be made by the County Council, or, in the case of an area situate in more than one county, by a joint committee of County Councils, but nothing in this provision is to empower a County Council or joint committee to alter the boundaries of a county (s. 69).

Supplementary provisions of order.

Section 59 of the Act of 1888, which is printed at page 364 of the Appendix, authorises a scheme or order under that Act to make administrative, judicial, financial, and other arrangements, incidental to or consequential on any alteration of boundaries, and the effect of its application to an alteration of area under the Local Government Act, 1894, is to enable the County Council to provide for every possible contingency. The section will apply whether the alteration is effected by the Act, as in the case of a parish in more than one Sanitary District,<sup>2</sup> or in the case of a Rural Sanitary District in more than one county,<sup>3</sup> or whether the alteration is effected by an order of the County Council made under the Act.

If the County Council find that an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in section 36 of the new Act, application is required to be made to the Local Government Board for an order under section 54 of the Local Government Act, 1888 (Local Government Act, 1894, s. 36 (5)).

Alteration of county or borough boundaries.

Upon such an application the Local Government Board may after local inquiry make a Provisional Order altering the boundary of the county or borough. If the order alters the boundary of a borough it may alter the number and boundaries of the wards, and the number of councillors and aldermen. The order has no effect unless confirmed by Parliament (Local Government Act, 1888, s. 54<sup>4</sup>).

## II.—APPLICATION OF THE POWERS OF COUNTY COUNCILS AS TO AREAS AND BOUNDARIES TO THE CASES MENTIONED IN SECTION 36 (1) OF THE LOCAL GOVERNMENT ACT, 1894.

The cases which the County Council, and, where an area is in

<sup>1</sup> See page 191.

<sup>2</sup> See page 10.

<sup>3</sup> See page 129.

<sup>4</sup> See page 362 of the Appendix.

Powers of  
County Council  
under Section 36.

more than one county, a joint committee of the Councils interested, are required to take into consideration are dealt with here in the order in which they occur in section 36 (1) of the Local Government Act, 1894, and in each case a statement of how the case may be dealt with under the provisions which have been previously mentioned is given.

(a) Every parish<sup>1</sup> and rural sanitary district which at the passing of the Act is situate partly within and partly without an administrative county.

Parishes in more  
than one county.

The cases mentioned in this paragraph must be dealt with by a joint committee of the Councils interested.

Where the county boundary in the case of a parish situated partly in and partly outside an administrative county coincides with the boundary of an urban district the parish would also come within the next sub-division (b) of the subject; but if it is contemplated to include any portion of the excluded part of the parish (that is the rural part of the parish) in the urban district, the county boundary must also be altered, as it would be inconsistent with section 50 (1) (b) of the Local Government Act, 1888, for an urban district to be situated in more than one county. An alteration of the county boundary will require an order of the Local Government Board, and so would any alteration of the boundary of a borough.

Where the parish overlapping the county boundary is an ordinary rural parish, it will be necessary for the joint committee to make some order, as although a rural sanitary district in more than one county is in the absence of other directions to be divided, no such automatic division of a parish in more than one county will take place. The joint committee may divide the parish without altering the county boundary, or decide that the county boundary should be altered so as to include the whole parish in one county, or they may think it desirable in exceptional cases to both divide the parish and alter the county boundary. Any alteration of the county boundary can only be made by an order of the Local Government Board. The divided parts of the parish, or any of them, may either be constituted new parishes, in which case they must be added to some union, or they may be united to other parishes. For the latter purpose the divided areas may be still further sub-divided. In uniting any part to another parish provision should be made where necessary for the alteration of the county district, and it should be remembered that a parish must not be partly in and partly outside a rural district, but a parish may *under exceptional circumstances* be partly in two or more urban districts. As a rule, however, a parish must be in one county district only.

Rural sanitary  
districts in more  
than one county

A rural sanitary district in more than one administrative county is divided automatically by section 24 (5) of the Act, so that the part in each county becomes a separate rural district, unless the joint committee provide otherwise. For special reasons they may direct that the district should remain in the counties in which it was situated at the passing of the Act. The division of a rural sanitary district by the Act does not affect the boundary of any parish within the district which

<sup>1</sup> In their circular letter of the 30th April, 1894, to the Town Councils of County Boroughs (see page 402 of the Appendix), the Local Government Board stated that "A parish partly within and partly without a county borough would, the Board believe, be in every case a parish partly within and partly without an administrative county, as defined by the Act of 1888. It would in any case be a parish partly within and partly without a sanitary district. Consequently it will be necessary that joint committees of the councils of the county and county boroughs should be appointed to act under section 36, with respect to every parish which is now partly within and partly without a county borough."

is in more than one county, and so far as such a parish may be concerned, the effect of the division of the rural district would be to divide the parish for purposes of the Rural District Council only. So far for what would happen if no order were made by the joint committee; but an order could treat the rural sanitary district in much the same way as a parish, which is divided by the county boundary, can be treated. The county boundary might be altered, or the district might be wholly or partly amalgamated with neighbouring districts, and where necessary be converted wholly or partly into an urban district. If desirable the order might provide for the alteration of the poor law unions, but under the Act a rural district may be in more than one poor law union.

Powers of  
County Council  
under Section 36.

Rural sanitary  
districts in more  
than one county.

- (b) Every parish which at the passing of the Act is situate partly within and partly without a sanitary district.

Parishes in more  
than one sanitary  
district.

These cases have been previously alluded to on pages 10 to 12. Unless other arrangements are made a parish so situated becomes divided by virtue of the Act, and the part in each Sanitary District becomes a new parish. No order of the County Council is required to effect the division of such a parish; but instead of permitting a parish to be divided, and new parishes formed by operation of the Act, the County Council might by order provide for the union of the parts which would otherwise form separate parishes with some neighbouring parish or parishes, or for the inclusion of the whole parish in one of the county districts in which it is partly situate. Where a parish is situated partly in an urban district and partly in a rural district, it will generally be found more convenient to include the whole parish in the urban rather than in the rural district.

A joint committee of the County Council and of the Council of the county borough will deal with parishes partly in an administrative county, and partly in a county borough. An alteration of the boundary of a borough can be made by an order of the Local Government Board only.

- (c) Every rural parish which has a population of less than 200.

Small rural  
parishes.

This case covers not only small parishes now existing, but small parishes which may be formed by the division by the Act of parishes which, at the passing of the Act, are in more than one sanitary district. The County Council will have to consider whether the parish may be conveniently grouped with any other parish or parishes under a common Parish Council, or whether it should have a separate Parish Council. They must provide for the establishment of a Parish Council if, in the case of a parish with a population of not less than 100, the Parish Meeting so resolve. Nothing can be done with respect to grouping or establishing Parish Councils until the appointed day, as the consent of a Parish Meeting is necessary (s. 1 (1)).

The limit of 200, in the case of paragraph (c), was fixed with reference to the same limit of population which was adopted by the House of Commons in section 1 for the purpose of the compulsory establishment of a Parish Council; but the limit in that section was raised by the House of Lords to 300, without any consequential amendments having been made in subsequent sections. The provision requiring rural parishes with a population according to the census of 1891 to be taken into consideration had more practical significance in connection with the first proposals of the Government that every rural parish with a population below the prescribed limit should be compulsorily grouped with some neighbouring parish or parishes under a common County Council.

A small parish might be united for all purposes with some neighbouring parish, so as to form a new parish, or might be divided, and the respective parts added to neighbouring parishes. Where a new parish is formed by an order of the County Council it should be placed in a poor law union.

Powers of  
County Council  
under Section 36.

Small rural  
sanitary districts.

(d.) Every rural sanitary district which at the passing of the Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district.

This case is to be considered with the view of providing that such a district unless for special reasons the County Council otherwise direct should be united to some neighbouring district or districts. For this purpose the district may be divided, and the parts united to different neighbouring districts, and where necessary the district or any part may be converted into an urban district, or any part may be transferred to an urban district.

Rural district co-  
extensive with  
rural parish.

(e.) Every rural parish which is co extensive with a rural sanitary district.

This case will generally come under the previous head, whilst some cases under the previous head may require consideration under this head also. Where for instance a parish is co-extensive with a rural sanitary district, and has less than five elective guardians, the County Council may for special reasons direct that the sanitary district shall not be united to some neighbouring district or districts. It will then be necessary for the County Council to consider the case under the present head. The question which the County Council have to decide in these cases is whether there shall be a separate election of a Parish Council. If the County Council do not otherwise direct, there will be no such separate election, and the Rural District Council will have the powers, and be deemed to be the Parish Council (s. 36 (4)).

Alteration of  
wards of urban  
district.

In instances where the area of an urban district is altered, some alteration in the number of wards, their boundaries, or the apportionment of members among the wards may be necessary. This may be effected by an order under section 57 of the Local Government Act, 1888. Under the same section an urban district may for the first time be divided into wards, and the necessary consequential arrangements made.

Consequential  
alterations.

These various changes, which have been indicated under the head of each class of cases, may often involve other administrative arrangements. Almost every possible contingency can be provided for by means of the ample power conferred by section 59 of the Local Government Act, 1888, to make administrative, financial, judicial, and other arrangements, incidental to or consequential on alterations made by an order (*see* page 195).

#### NAMES OF NEW PARISHES AND GROUPS OF PARISHES.

Order of County  
Council.

Where a parish is divided or united or grouped with another parish by an order in pursuance of the Local Government Act, 1894, each new parish or group so formed is to bear such name as the order directs (s. 55 (1)).

It is not altogether clear whether the naming of a new parish can be considered a "change of name" within the meaning of section 55, as that section expressly authorises a District Council to "change" their name and the name of their district; but the case of the naming of a new parish seems to come within the spirit of subsections (4) and (5) of section 55, which provide that every change of name made in pursuance of the section shall be published in such manner as the

authority authorising the change may direct, and shall be notified to the Local Government Board,<sup>1</sup> and the change of name shall not affect any rights or obligations of any parish, district, Council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

New Parishes  
and Groups.  
—  
Change of name  
to be published.

The authority authorising the change of name, under section 55 (1), would, of course, be the County Council or joint committee making the order.

#### DIVISION OF PARISH INTO WARDS FOR ELECTION OF PARISH COUNCIL.

A County Council may at any time, on application by the Parish Council, or not less than one-tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single Parish Meeting for the election of councillors impracticable or inconvenient, or that it is desirable for *any* reason that certain parts of the parish should be separately represented on the Council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards, with such boundaries and such number of councillors for each ward as may be provided by the order.

Parish wards.

In the division of a parish into wards regard is to be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area, and to the distribution and pursuits of the population, and to all the circumstances of the case.

An order may be revoked or varied by the County Council on application by either the Council or not less than one-tenth of the parochial electors of the parish, but while in force it is to have effect as if enacted by the Local Government Act.

Alteration of  
order.

In a parish divided into parish wards there will be a separate election<sup>2</sup> of parish councillors for each ward (s. 18), and this election will take place in the ordinary way at a Parish Meeting.<sup>3</sup>

Election for each  
ward.

The power of the County Council to divide a parish into wards for the purpose of electing parish councillors is quite distinct from the powers conferred upon a County Council to divide a parish into wards for the purpose of the election of rural district councillors by section 60 of the Act.<sup>4</sup> A rural parish might be divided into wards for each purpose which would not necessarily be co-terminous. It would, of course, be convenient that the boundaries of wards formed for these different purposes should not intersect one another.

Other wards.

#### ALTERATION OF BOUNDARIES FOR FIRST ELECTION.

Every division into wards or alteration of the boundaries of

<sup>1</sup> And also the Board of Agriculture, *see* page 204.

<sup>2</sup> *See* Chapter XII. as to elections.

<sup>3</sup> *See* pages 20 and 21.

<sup>4</sup> *See* page 124.

Division of  
Parish into  
Wards or  
alteration of  
boundaries.

First Election.

any parish or union or district which is to affect the first election must, if it affects the parishes or parts for which the registers of parochial electors will be made, be made, so far as practicable, before the first day of July, 1894, and any such division or alteration which after the appointed day may be made on application by the Parish Council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish (s. 84 (3)).

This direction is given so as to avoid difficulties in the preparation of the lists of voters for the first election, but provision is made by the Act for making adjustments in the register of parochial electors where an alteration of boundaries takes place after the 1st of July, 1894, and before the election, *see* page 217 of Chapter XII.

#### TIMES FOR PROCEEDINGS IN 1894.

To comply with the direction, the proceedings required to be taken by the Local Government Act, 1894, and the orders of the Local Government Board for expediting and simplifying the procedure during 1894 (*see* page 194), make it necessary that not later than certain dates in May, notices of the local inquiries to be held should be given.

Countries.

In the following observations only the principal requirements of the orders are referred to: for the details, reference must be made to the orders themselves. It must be understood that in the expression "County Council" is included, a Committee of the County Council, or a Joint Committee of County Councils where an area is in more than one county.

County  
boroughs.

The cases mentioned in section 36 (1), which must be taken into consideration (*see* pages 195 to 198), cannot for the most part occur in a county borough; but a parish may be partly in and partly outside such a borough. A Joint Committee of the Town Council and of the County Council concerned will deal with such cases, but any alteration of the boundary of the borough must be effected by an order of the Local Government Board. The procedure in 1894 prescribed for the Town Councils of county boroughs or of any Committee or Joint Committee appointed by them, is practically the same as that prescribed with respect to an order of a County Council requiring the confirmation of the Local Government Board. So far, therefore, as the following observations relate to orders requiring confirmation, they apply to orders made by the Town Council of a county borough or any Committee or Joint Committee appointed by them.

Notice of  
inquiry.

The first step which the County Council have to take before making any order under Part III of the Local Government Act, 1894, is to give public notice by advertisement in a local newspaper of the purport of the proposal, and of the day, time, and place<sup>1</sup> fixed for the

<sup>1</sup> School and other rooms maintained out of local rates may be used for the purpose. *See* page 79.



inquiry, and at the same time publish the same particulars and furnish them to the several government departments and local authorities concerned.

Times for  
proceedings in  
1894.

Ten clear days from the date of these notices must elapse before the inquiry can be held. Date of inquiry.

The subsequent proceedings required to be taken, depend upon whether the order does or does not require the confirmation of the Local Government Board.

An order not requiring confirmation is taken first. Such an order may be made at any time after the inquiry has been held, and will not require any final approval if the provisions of the Local Government Board's order as to advertising and deposit of the proposed order are duly complied with. *Order not requiring confirmation.*

Public notice of the proposed order must after the inquiry has been held be given by advertisement in a local newspaper. Public notice of order.

Twenty-one clear days must elapse after the publication of the newspaper before the meeting of the Council to hear objections to the proposed order. Meeting of Council to hear objections.

The proposed order must be deposited during fourteen days for inspection by any owner or ratepayer. The period of deposit should begin the day after the publication of the newspaper in which the advertisement appeared. Deposit of order.

A person proposing to attend the meeting of the Council to make an objection, must send not less than three days before the date of the meeting, a written statement of his objections to the clerk of the Council. Notice of objection.

After the meeting of the County Council to hear objections has been held, the order, if previously made and no further action is taken by the Council, comes into operation. If the order has not been made, the County Council may proceed to make it. Operation of order.

An order requiring confirmation must when made, be submitted to the Local Government Board. If time presses it might, after the inquiry has been held, be made by the County Council on the same day, but in most instances such a course would not be practicable. *Order requiring confirmation.*

Public notice of the provisions of the order made by the County Council must be given by advertisement in a local newspaper within ten days after the making of the order. Public notice of order.

The order must be deposited during a period of fourteen days for inspection by any owner or ratepayer. This period should begin the day after the publication of the newspaper in which the advertisement appeared. Deposit of order.

Times for  
proceedings in  
1894.  
Confirmation of  
order.

Six weeks must elapse after the date of the advertisement of the order before it can be confirmed, and during that time petitions to the Local Government Board to disallow the order may be presented<sup>1</sup>. If any petition is presented and not withdrawn, the Local Government Board also *must* hold a local inquiry, which would lead to further delay before the order could be confirmed.

Proceedings in  
1894-5.

The orders of the Local Government Board for expediting and simplifying the procedure under section 57 of the Local Government Act, 1888, relate to cases in the year 1894 only (Local Government Act, 1894, s. 80 (2)), and some doubt exists as to how far they might be applicable to proceedings under section 57 begun in 1894, but not completed in that year. Where an order could not be made or confirmed so as to come into operation before the 1st day of January, 1895, it would be prudent, in order to avoid any question being raised, to take all proceedings under the order of the Local Government Board dated 14th September, 1889 (*see page 194*).

Table of dates.

The following statement gives in a tabular form the latest dates for the several proceedings required by the orders of the Local Government Board, so that an order made by a County Council may come into operation before the 1st day of July, 1894.

**LATEST DATES under the Orders of the Local Government Board<sup>2</sup> for  
Proceedings to alter Boundaries for the Elections in 1894.**

(i.) *Where the Order of the County Council does not require confirmation by the Local Government Board (see page 193).*

*26th May.*—Last day for advertisement in a local newspaper of the purport of the proposal and of the prescribed local inquiry, and for publication of the same as otherwise directed by the orders.

*7th June.*—Last day for holding the local inquiry.

*8th June.*—Last day for advertising *after* the inquiry the proposed order in a local newspaper.

*9th to 22nd June.*—Deposit for 14 days of copies of order, or of proposed order for inspection.

*22nd to 26th June.*—Between these dates inclusive, according to the day fixed by the County Council for their meeting to hear objections, a person objecting to proposed order must, not less than three days before the date of the meeting, send to the clerk of the Council a written statement of objections.

*26th to 30th June.*—Between these dates, inclusive, the meeting of the Council to hear objections must be held.

*30th June.*—Last day for making the order.

(ii) *Where the Order requires confirmation by the Local Government Board (see page 193).*

*5th May.*—Last day for advertisement in a local newspaper of the purport of the

<sup>1</sup> See page 193.

<sup>2</sup> See pages 383 and 408 of the Appendix.

proposal and of the prescribed local inquiry and for publication of the same as otherwise directed by the orders.

Times for  
proceedings in  
1894.  
—

17th May.—Last day for holding the local inquiry and for making any order.

18th May.—Last day for the advertisement in a local newspaper of the provisions of any order made by the Council.

19th May to 1st June.—Deposit for 14 days of copies of order for inspection.

29th June.—Last day for petitioning the Local Government Board to disallow the order (*see* page 193).

30th June.—Last day for confirmation of the order by the Local Government Board.

*The dates must be altered where a greater time elapses than is contemplated in the above statement. For instance, if any inquiry took three days instead of one, all the subsequent proceedings would necessarily be delayed two days.*

### NEW URBAN DISTRICTS.

In the future formation of new urban districts or the extension of existing urban districts, or the subtraction from the area of an urban district of any part of the district, certain provisions are required to be made by section 54 of the Local Government Act, 1894. These provisions, which apply where a new borough is created or any other new urban district is constituted, or the area of an urban district is extended and, *with the necessary modifications*, where the area of an urban district is diminished, are as follows:—

Provisions to  
be made.

- (a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision must be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district.

In urban districts the appointment of overseers will continue to be made by the justices, unless an order of the Local Government Board is made under section 33 (1) of the Local Government Act, 1894, conferring on the urban District Council or some other representative body the power and duty of appointing the overseers. The provision in paragraph (a) will in effect enable the Local Government Board or the County Council,<sup>1</sup> who make an order extending the boundaries of an urban district, to extend to the added area any provisions as to the appointment of overseers or other matters which may be in force in the urban district by virtue of an order of the Local Government Board under section 33 (1) of the Act of 1894.

Appointment of  
overseers, &c.

- (b) as respects any parish or part which remains rural, provision must be made for the constitution of a new Parish Council, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part.

Parish Council,  
&c., where  
parish remains  
rural.

<sup>1</sup> See pages 189 and 195.

New Urban Districts.

(c) provision must also where necessary be made for the adjustment of any property, debts, and liabilities affected by the said creation, constitution, or extension.

Adjustment of property, &amp;c.

These several matters are respectively to be provided for:—

New borough.

(a) Where a new borough is created, by a scheme under section 213 of the Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50).

A scheme under the enactment referred to, which is printed at page 337 of the Appendix, is made by the Privy Council on the creation of a new borough for the transfer of the powers, duties, liabilities, and property of the superseded local authorities.

Other new urban districts.

(b) Where any other new urban district is constituted, by an order of the County Council under section 57 of the Local Government Act, 1888;

Extension of urban district.

(c) Where the area of an urban district is extended, by an order of the Local Government Board under section 54, or of the County Council under section 57, as the case may be, of the Local Government Act, 1888.

An extension of a borough would have to be provided for by an order of the Local Government Board under section 54 of the Act of 1888; *see* page 362. The County Council would deal with the extension of any other urban district under section 57 of that Act.

The procedure under section 57, as amended by the Local Government Act, 1894, has been explained previously in this chapter.

#### COPIES OF ORDERS UNDER LOCAL GOVERNMENT ACT, 1894.

A copy of every order made by a County Council or joint committee in pursuance of the Local Government Act, 1894, is to be sent to the Local Government Board, and, if it alters any local area or name,<sup>1</sup> also to the Board of Agriculture (s. 71).

#### LOCAL INQUIRIES.

Expenses of Local Government Board.

The expenses incurred by the Local Government Board in respect of inquiries or other proceedings under the Local Government Act, 1894, are to be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by any authority or person is to be a debt from that authority or person to the Crown. The expenses may include the salary of any inspector or officer of the Board engaged in the inquiry or proceeding, not exceeding three guineas a day. For the purposes of an inquiry under the Act the Local Government Board and their inspectors are given the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875 (38 & 39 Vict. c. 55) [Local Government Act, 1894, s. 72 (1) (2) (3)].

Powers of Board and inspectors.

<sup>1</sup> *See* also page 198.

Those powers which are conferred by sections 293 to 296 of the Act of 1875 have been explained on page 111, in connection with local inquiries relating to the compulsory acquisition of land. The power of the Local Government Board under section 294, to make orders as to the costs of inquiries is superseded for the purposes of the Local Government Act, 1894, by the provision in section 72 of the latter Act on the same subject.

A County Council or any committee or person authorised by them to hold a local inquiry have, except for the purposes of a public inquiry under sections 9 and 10 of the new Act (*see* page 111), no such special powers as are conferred on the Local Government Board and their officers.

Where a County Council hold a local inquiry under the Local Government Act, 1894, or under the Local Government Act, 1888, on the application of the Council of a parish or district, or of any inhabitants of a parish or district, the expenses incurred by the County Council in relation to the inquiry (including the expenses of any committee or person authorised by the County Council) are to be paid by the Council of that parish or district, or, in the case of a parish which has not a Parish Council, by the Parish Meeting. In other instances the expenses of the County Council incurred in the case of inquiries under the Local Government Act, 1894, are to be paid out of the county fund (Local Government Act, 1894, s. 72 (4)).

This provision does not apparently authorise a County Council to include in the expenses of an inquiry the proportions of the salary of any of their officers, for the Act confers on them no such express authority to do so as it confers on the Local Government Board in connection with inquiries or proceedings of that Board. It seems doubtful whether the provision as to charging the expenses of an inquiry to the local authority, applies where the inquiry is held, not expressly on the application of the Council or any inhabitants of the parish or district, but incidentally on an application for a certain act to be done, as, for example, for the constitution of a new urban district. As to this *see* the observations on page 113.

#### COUNTY COUNCILS TO BRING ACT INTO OPERATION.

It is expressly made the duty of every County Council to exercise all such of their powers as may be requisite for bringing the Local Government Act, 1894, into full operation within their county as soon as may be after its passing, and a County Council are authorised to delegate their powers under the Act to a committee (s. 83).

Local Inquiries.

Powers of  
County Council.

Expenses of  
County Council.

County Councils  
to exercise their  
powers.

Delegation to  
committee.

## CHAPTER XII.

### *Registration and Elections — Register of Parochial Electors—Registration Proceedings—Disqualifications of Candidates and Members of Local Authorities—Mode of Election—First Elections.*

#### REGISTER OF PAROCHIAL ELECTORS.

“Parochial electors.”

THE “parochial electors” under the Local Government Act, 1894, constitute in rural parishes the Parish Meeting, and in every parish or other area are the electors of the Parish and District Councils other than Town Councils, and of the Boards of Guardians. In London they are the electors not only of the Guardians but also of the members of the Vestry, and of the auditors of the accounts of the Vestries and District Boards. Being a parochial elector is also one of the qualifications for members of these various bodies.

Who are “parochial electors.”

In connection with the constitution of Parish Meetings it has been shown that the parochial electors of a rural parish are the persons registered in such portion, either of the local government register of electors, or of the parliamentary register of electors as relates to the parish (s. 2 (1)). When the expression “parochial elector,” is used with reference to a parish in an urban district, or in the county of London or any county borough, it means any person who would be a parochial elector of the parish if it were a rural parish (s. 75 (2)).

London and urban districts.

Local government register.

The local government register for a parish in an administrative county is the county register of electors, and for a parish in a county borough or other municipal borough is the burgess roll.

Parliamentary register.

The parliamentary register is the register of persons entitled to vote at any parliamentary election.

Married women.

Women may be placed on the burgess roll of a borough and on the county register, but married women have been held to be disqualified by reason of coverture from being on the burgess roll, and consequently on the county register. This disqualification will not apply to elections under the Local Government Act, 1894, and, for the purposes of that Act, a woman is not to be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority; but a husband and wife are not both to be qualified in respect of the same property (s. 43).

Married women are not enfranchised by this provision for municipal and County Council elections, as these elections are not purposes of the Local Government Act, 1894.

The County Electors Act, 1888 (51 Vict. c. 10), extended the "burgess qualification" for the electors in a municipal borough, conferred by the Municipal Corporations Act, 1882, to the rest of the county, and made the parliamentary "£10 occupation qualification" a qualification for registration as a county elector.

County electors.

In the following observations on the local government franchises as applicable to parochial electors, it must be understood that women, both married and single, if they possess the requisite qualifications, are entitled to be registered as well as men. Peers may be placed on the local government register, but not on the parliamentary register.

Local Government franchises as applicable to parochial electors.

Certain general qualifications apply to all the franchises, namely: A person entitled to be registered must be of full age, and not subject to any legal incapacity, and must not at any time during the twelve months immediately preceding the 15th day of July have received any parochial relief;<sup>1</sup> but where a person has received for himself or for any member of his family any medical or surgical assistance, or any medicine, at the expense of any poor rate, he is not thereby deprived of his right to be registered, and medical or surgical assistance includes all medical and surgical attendance, and all matters and things supplied by or on the recommendation of the medical officer of the union or parish at the expense of any poor rate. [Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46)].

General qualifications.

Among "legal incapacities" for the local government and parliamentary franchises are being an alien<sup>2</sup> and conviction for corrupt and illegal practices at elections.

A person entitled to be registered as a County Elector or a Burgess must have fulfilled the following conditions:—

Qualifications of county electors and burgesses.

I.—He must on the 15th July be, and for the whole of the preceding twelve months, have been, in occupation in the county or borough of property of a nature to entitle him to be registered. Such property is called "qualifying property." It must be either—

- (i.) A house, warehouse, counting-house, shop or other building, in which case the occupation may be joint or several.
- (ii.) Part of a house separately occupied for the purpose of any trade, business, or profession, or as a dwelling.

Old burgess Qualification.

A person occupying part of a house separately will not be disqualified by reason of being entitled to the joint use of some other part.

- (iii.) Land or a tenement of a clear yearly value of not less than £10; and where such property is occupied jointly the yearly value must be sufficient to give £10 for each occupier, in order to confer the qualification. Qualification in respect of such property is called a £10 occupation burgess qualification.

£10 occupation burgess qualification.

<sup>1</sup> See observations concerning relief on pages 217 and 218. <sup>2</sup> See page 217.

Qualification of  
county elector  
and Burgess.

Where a person succeeds to qualifying property by descent, marriage, marriage settlement, devise, or promotion to a benefice or office, the occupancy of the property by a predecessor in title is equivalent to the occupancy of the successor. The qualifying property need not be, throughout the twelve months constituting the period of qualification, the same property, nor in the same parish [Municipal Corporations Act, 1882 (45 & 49 Vict. c. 50), s. 33]; but the property must be in the same borough, or, if not in a borough, in the same county.

A person is entitled to be registered, notwithstanding that he has permitted his dwelling-house to be occupied as a furnished house by some other person, by letting it or otherwise, for a period not exceeding four months.

A person is not disqualified for being registered by reason only that during part of the qualifying period not exceeding four consecutive months, he has in discharge of the duty of any office, service, or employment, been absent from his dwelling-house.

Residence.

- II.—He must, during the whole of the twelve months which constitute the period of qualification, or, if the qualification is the £10 occupation Burgess qualification, during the last six months thereof, have resided<sup>1</sup> in the county or borough, or within seven miles thereof.

In the case of a person letting his qualifying property as a furnished house, as above mentioned, he does not lose his qualification by residing beyond the seven miles during such letting. A person may also be absent for a period not exceeding four consecutive months in the performance of the duty of his office, service, or employment, without being disqualified [Municipal Voters Relief Act, 1885 (48 Vict. c. 9)].

A person occupying qualifying property in a borough, and residing more than seven miles from the borough, has no vote in respect of such property for the county in which the borough is situated, even although he may reside in the county.

Rating.

- III.—He or some one else must have been rated to all poor rates made during the twelve months constituting the qualifying period, in respect of the qualifying property.

Payment of  
rates.

- IV.—He must, on or before the 20th July, have paid all poor rates, including county or borough rates, that have become payable by him in respect of the qualifying property up to the preceding 5th January.

Payment of the rates by the owner of the property, under an agreement with the occupier, or under any other agreement or obligation, is considered payment by the occupier, but gratuitous payment by a person with no interest in the property will not be such payment by the occupier as to entitle him to be registered.—*R. v. Bridgnorth* (10 A. and E. 66).

Payment of  
assessed taxes.

- V.—He must, on or before the 20th July, when the qualification is a £10 occupation Burgess qualification, have paid the assessed taxes that accrued on or before the preceding 5th of January.

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<sup>1</sup> See page 29, as to what constitutes "residence." For a parish in the administrative county of London the limit of residence is within *fifteen* miles of the county.



A person entitled to be registered as a parliamentary elector for a parliamentary borough must have one of the following qualifications:—

Qualification of an elector for a parliamentary borough.

### I.—The £10 occupation qualification—

This is practically the same as the Local Government £10 occupation burgess qualification previously explained; but the property must be in the parliamentary borough and the residence within seven miles<sup>1</sup> of the parliamentary borough; and the qualification does not extend to peers or women.

### II.—Household qualification—

*i.e.*, occupation of a dwelling house as inhabitant occupier on the 15th of July and for the whole of the twelve months immediately preceding that day (except the time (if any) not exceeding four months in the whole during which he has permitted the house to be occupied as a furnished house).

The conditions as to rating and payment of rates and absence in discharge of the duty of any office, service, or employment, are similar to those laid down for the Local Government burgess qualification, with the exception that the condition as to the payment of rates does not apply to county or borough rates.

If a person inhabits a dwelling house by virtue of any office, service, or employment, and the dwelling house is not inhabited by any person under whom such man serves in such office, service, or employment, he is to be considered as an inhabitant occupier of that dwelling house.

Where a person inhabiting a dwelling house would otherwise be entitled to be registered as an elector, he is entitled to be registered, notwithstanding his temporary absence from such house in the execution of his duty as a police officer during a part, not exceeding four consecutive months, of the twelve months ending on the 15th of July.<sup>2</sup>

### III.—Lodger qualification—

*i.e.*, occupation separately as a lodger for the whole twelve months immediately preceding the 15th of July of lodgings, being part of one and the same dwelling-house, and being of a clear yearly value, if let unfurnished, of £10 or upwards; and a residence for the same period in such lodgings.

If two or more persons are joint lodgers, and the value of the lodgings is such as to give £10 or more for each lodger, two of such persons, but no more, are entitled to be registered as parliamentary electors.

If a person has occupied different lodgings of the requisite value in the same house, in immediate succession, he is entitled to be registered as a parliamentary elector in respect of the occupation thereof.

A person does not lose his qualification by reason of his absence in discharge of any office, service, or employment for a period not exceeding four consecutive months.

A person must claim to be registered as a lodger.

### IV.—Reserved rights—

*i.e.*, certain rights existing in certain cases before the Reform Act, 1832 (*2 Will. IV. c. 45*).

<sup>1</sup> The limit is twenty-five miles in the case of a parish in the City of London.

<sup>2</sup> By the Period of Qualification and Elections Bill now before the House of Commons, the Government propose to reduce the qualifying period generally to three months and to repeal all provisions requiring rating or the payment of rates as a qualification for the parliamentary franchise. The registration is proposed to be half-yearly.

Qualification of  
an elector for a  
parliamentary  
county.

A person entitled to be registered as a parliamentary elector for a county must have one of the following qualifications :—

### I.—Ownership qualification.

This may be shortly described as a qualification in respect of ownership of land, &c., as distinguished from occupation.

Subject to certain conditions, it is conferred by ownership of—

- (i.) Any freehold of inheritance of land or tenements of the annual value of at least forty shillings.
- (ii.) Freehold for life or lives of lands or tenements of an annual value above forty shillings, but below £5, provided that the property is in the *bonâ fide* occupation of the owner ; or was acquired before the passing of the Reform Act, 1832 ; or was acquired by marriage, marriage settlement, descent, devise, or accession to a benefice or office.
- (iii.) Freehold, copyhold, or any other tenure, for life, or lives, or any larger estate, of lands or tenements of a clear yearly value of at least £5.
- (iv.) Leasehold originally created for a term not less than 60 years, and of a yearly value of at least £5.
- (v.) Leasehold of lands or tenements originally created for a term not less than 20 years, and of a yearly value of at least £50.

### II.—Occupation qualification, namely :—

#### £50 rental qualification—

This is merely a temporary provision for certain persons entitled in 1884, and is generally absorbed in the £10 occupation qualification.

#### £10 occupation qualification—

This qualification is the same as the £10 occupation burgess qualification for a county elector, except that residence is not required, and the assessed taxes need not have been paid, and that the qualification does not extend to peers and women.

#### Household qualification—

This is the same as in parliamentary boroughs.

#### Lodger qualification—

This is the same as in parliamentary boroughs.

No person is qualified as an occupation voter for a county, in respect of property within a parliamentary borough.

## REGISTRATION PROCEEDINGS.

Registration of  
Electors.

The registration of electors is carried out in the following way :— First, provisional lists of electors are prepared for each parish ; the lists are then revised by the Revising Barristers, subject to an appeal in certain cases to the High Court ; and, finally, the various necessary rolls of electors are made up and printed.

The administrative duties connected with the preparation of the parish lists fall chiefly on the town clerks of parliamentary and municipal boroughs, and on the clerks of the county councils, and in each parish on the overseers of the poor.

The Board of Guardians of any union which is not wholly comprised in an urban sanitary district, may, with the consent of the Overseers of any parish in their union, for which an Assistant Overseer has not been appointed, annually appoint a Registration Officer to perform the duties of Overseers in respect of the registration of voters for such parish. The same officer may be appointed for

more than one parish. The Guardians pay the officer and charge his remuneration against the poor rates of the parish or parishes for which he is appointed, and if he is appointed for more than one parish, in proportion to the number of electors registered for each parish.

Registration  
Order, 1889.

Instructions to Town Clerks and Clerks of the Councils were given by the Registration Order, 1889.

The proceedings are as follows : —

The town clerk of every parliamentary or municipal borough, on or within seven days before the 15th April, sends a precept containing instructions to overseers, and a sufficient number of blank forms for the necessary lists, to the Overseers of every parish within his borough. This precept instructs the overseers to prepare the following lists :—

Precept of Town  
Clerk.

The Occupiers List,

The Reserved Rights List,

The Old Lodgers List,

The Non-resident List,

and various supplementary lists of claimants, persons objected to, &c

The clerk of every County Council, also on or within seven days before the 15th April, sends a precept and blank forms to the overseers of every parish within the county, including the parishes within the county boroughs, directing the preparation of the same lists, and in addition a list of ownership voters. To the overseers of parishes in a parliamentary or a municipal borough, a precept directing the preparation of a list of ownership voters only, is sent.

Precept of Clerk  
of the County  
Council.

Where a parish is situated partly within and partly without the boundary of a parliamentary county or borough, or a municipal borough, or an administrative county, each part of such parish is treated as a separate parish.

On or before the 18th July, the Town Clerk, or Clerk of the County Council, also sends to the Overseers the "corrupt and illegal practices list," if there is such a list.

The Overseers prepare, on or before the 31st July, besides the exclusively parliamentary lists, the "Occupiers List," which is a list of persons entitled, in respect of the occupation of property in the parish, to be registered as parliamentary electors, or as county electors or burgesses, or both as parliamentary electors and as county electors or burgesses, as the case may be.

Occupiers' List.

The occupiers list is made out in three divisions, the first division containing the names of persons entitled to be registered both as parliamentary voters (in respect of occupation), and as county electors or burgesses ; the second division containing the names of persons entitled to be registered as parliamentary electors alone, and the third division containing the names of persons entitled to be registered as county electors or burgesses but not as parliamentary voters in respect of an occupation qualification. As the disqualification of married women is removed in respect of the local government register of electors only, their names should be entered in the third division of the list.

Married women.

Registration  
Order, 1889.  
Non-Resident  
List.

The Overseers further, on or before the 31st July, prepare a list of persons qualified in all respects but residence, and who, though resident beyond the seven miles, yet reside within fifteen miles of the county or borough, as the case may be, as such persons may be qualified to be County or Town Councillors, though not to vote. This List is called the "Non-resident List."

Publication of  
Lists on 1st  
August.

The Overseers, on or before the 1st August, publish the occupiers list, non-resident list, and the corrupt practices list, by fixing them in certain public places. They also retain copies of all these lists for public inspection and for sale.

Claims.

Any person whose name has been improperly omitted from the list of electors or the non-resident list thus prepared for a parish, may, on or before the 20th August, send notice to the Overseers claiming to have his name inserted. And if a person's name has been improperly inserted in the corrupt and illegal practices list, he may claim to have it omitted from that list.

Correction of  
Errors.

Also any person entered upon such a list, concerning whom there is any mistake in such list, may, whether or not he has received notice of objection, make a declaration before a Justice of the Peace or a Commissioner to administer oaths correcting such mistake.

This declaration must be sent to the Town Clerk or Clerk of the County Council, as the case may be, on or before the 5th September, and must be indorsed by him. The declaration so indorsed is evidence before the Revising Barrister.

Objections.

Any person on any list of electors in a county or borough, may object to the name of any other person on a list of electors for any parish in that county or borough.

Where an objection is made, notice of such objection must be sent to the overseers of the parish of the person objected to. At the same time notice of objection must be sent to the person objected to, specifying the ground of objection.

Withdrawal of  
Objections.

Objections may be withdrawn either partially or wholly on notice being sent not less than seven days before the day appointed for the holding of the final court of revision of the list to which the objection relates. Objections in the case of the death of an objector may be revived on notice by any person qualified to have made the objection in the first instance. Notices of withdrawal and revival are sent, in municipal or parliamentary boroughs, to the Town Clerk, elsewhere to the Overseers. Notices are also sent to the person objected to.

Publication of  
Lists on 25th  
August.

The Overseers on or before the 25th of August make out lists of claimants and of persons objected to. These lists they publish (on or before the 25th of August) and keep copies of, for public inspection and for sale in the same way as the occupiers' lists.

On or before the 25th of August the overseers of a parish in a municipal borough send, among other things, copies of the occupiers' list and of the claim and objection lists for their parish to the Town clerk of the borough in which the parish is situated, and also, if the parish is not in a parliamentary borough, to the clerk of the County Council. If the parish is not within a municipal borough the overseers send copies to the clerk of the County Council, and also, if the parish is within a parliamentary borough, to the town clerk of the borough.

Registration  
Order, 1889.

Copies of Lists  
sent to town  
clerks, and to  
clerks to  
County Council.

### REVISION OF LISTS.

For the purpose of the revision and correction of the lists prepared by the overseers, revising barristers are appointed for every county and every parliamentary borough.

Revising  
barristers.

The lists for every parish in a parliamentary borough, or in a municipal borough which is as to any part co-extensive with a parliamentary borough, are revised by the revising barrister of the parliamentary borough. The lists for other parishes are revised by the revising barrister for the county, or part of a county, in which they are situated. The revising barristers hold open courts between the 8th September and the 12th October at convenient times and places, of which due notice is given beforehand.<sup>1</sup>

Town clerks, clerks of county councils, and overseers attend at these courts and produce the parish lists of county electors, burgesses, claimants, persons objected to, &c., together with rate books, original notices of claims and objections, &c.

In proceedings before the revising barrister his decision is final as to facts and as to the admissibility of evidence.

Proceedings  
before revising  
barrister,  
alterations by  
him.

The revising barrister is empowered and required to correct the lists in certain matters, but entries in the lists are generally to stand unless objection is made and sustained. There must, where a claim to be registered is made, be *prima facie* proof of the validity of the claim.

In the case of the name of a person being entered more than once as a parliamentary elector for the same county, the revising barrister was required to retain, subject to the right of the person to select the entry to be retained, one entry and *erase* the others [Registration Act, 1885 (41 & 42 Vict. c. 26) s. 4 (9)], except where the entries were in division one of the occupiers' list (which contains the names of persons entitled to be registered both as parliamentary electors and as county electors or burgesses) when he was required to place an asterisk or mark against the duplicate entries [County Electors Act, 1888 (51 Vict. c. 10, s. 7 (5))].

Marking of  
names.

<sup>1</sup> By the Parochial Electors (Registration Acceleration) Bill now before Parliament, the Government propose that the Revision Courts in 1894 shall be held between the 3rd and 22nd of September inclusive, in order that the Register of Parochial Electors should come into operation on the 22nd of November, 1894.

## Revision of Lists.

Where a person was entered more than once as a parliamentary elector on the lists of electors for the same parliamentary borough, the revising barrister was required to retain, subject to the right of the person to select the entry to be retained, one entry for voting, and to place against the others a note that the person was not entitled to vote in respect of the qualification contained in the entries [Municipal Registration Act, 1878 (41 & 42 Vict. c. 26) s. 28 (14); 48 & 49 Vict. c. 15, s. 5].

## Persons entitled to vote as Parochial Electors in more than one parish.

These provisions were intended to secure that a person should not, in the same parliamentary constituency, have more than one vote, but they are modified by the Local Government Act, 1894, so as to permit a person to vote as a parochial elector in any parish in respect of which he possesses the requisite qualification. In future the revising barrister, instead of placing any mark or note against a duplicate entry, or erasing such entries, is to place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list (which contains the names of persons entitled to be registered as county electors or burgesses, but not as parliamentary voters in respect of an occupation qualification), or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors (s. 44 (6)).

## Married women.

Married women will be placed in the separate list.

## Out-Voters.

Any person whose name appears on a list of parliamentary electors of any parish in and for any county, and who resides in another polling district of the county, may claim before the revising barrister to vote in the polling district where he resides, and any person whose name so appears, and who does not reside in the county, may claim to vote in any polling district of the county (6 & 7 Vict. c. 18, s. 36). In the parish lists an asterisk only was prefixed to the names of persons voting in some other polling district, and their names were not numbered consecutively with the other names in those lists (s. 47). A separate supplemental list of such "out-voters" entitled to vote in a polling district is printed at the end of all the parish lists of that polling district (48 & 49 Vict. c. 15, s. 4 (8)).

As an out-voter is to be entitled to vote as a parochial elector for the parish in which he is qualified for the parliamentary franchise, it is now provided that in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list (Local Government Act, 1894, s. 44 (5)).

County ownership electors whose qualifying property is in a parliamentary borough are also to be entitled to be registered as parochial electors, but the names of these voters are on the parliamentary register of the county in which the borough is situated and not on the register of the borough. For the purpose of the register of parochial electors where a parish is in a parliamentary borough, that portion of the parliamentary register of electors for the county which contains the names of persons registered in respect of the ownership of any property in the parish is to be deemed to form part of the parliamentary register of electors for the parish (s. 44 (2)).

Revision of Lists.

County ownership Electors.

A person, however, is not to be registered more than once as a parochial elector in a parish, and where his name is entered both in the ownership list and in the occupation list of voters in the same parish, and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the local government register, an asterisk or other mark is to be there printed against the name, and such person is not to be entitled to vote as a parochial elector in respect of that entry.

Parochial Elector to be registered once only in the same parish.

This provision in effect means that a person, who is entered on the list of parliamentary electors for a county in respect of an ownership qualification, and who is also registered as a county elector or Burgess, but in respect of the latter qualification is placed in division three of the register which contains the names of persons entitled to be registered as county electors and Burgesses but not as parliamentary electors in respect of an occupation qualification, shall be registered as a parochial elector by virtue of his parliamentary qualification, and not by virtue of his local government qualification.

Nothing in any Act is to prevent a person, if duly qualified, from being registered in more than one register of parochial electors; and any person may claim for the purpose of having his name entered in the parochial electors list, and the law relating to claims to be entered in lists of voters shall apply (s. 44 (4) (9)).

Registration in two or more parishes. Claims to be registered.

#### APPEAL FROM REVISING BARRISTER.

An appeal lies from the decision of a revising barrister to a Divisional Court of the Queen's Bench Division on a point of law. The aggrieved person intending to appeal, or some one on his behalf, must give a notice in writing to the barrister before the rising of the Court, whereupon the barrister, if he thinks it a proper case, must within ten days after the conclusion of the revision, state the material facts and his decision thereon, in the form of a special case.

Appeal to Divisional Court.

#### PREPARATION OF REGISTERS OF ELECTORS.

After the lists have been revised by the barrister he delivers the revised lists to the clerk of the county council; or if the list relates to a borough, to the town clerk of the borough, who

Preparation of  
Registers of  
Electors.

must send copies of such revised lists to the clerk of the county council, and from these lists the clerks of the county councils and town clerks prepare and have printed the various rolls of electors necessary, arranging these lists in parts, so that the parts can be put together for use in electoral divisions, boroughs, wards of boroughs, and polling districts. In making out these lists, the list of each polling district is distinguished by a letter, and the name for each elector by a number, so that there is one complete set of numbers for each polling district. Each part of each register is made in alphabetical order of surnames, except that the parts of the register relating to parishes in which the lists have been made out in the order of premises, may follow the same order.

The clerk of the county council or town clerk, as the case may be, is required in printing the lists returned to him by the revising barrister, to do everything that is necessary for carrying into effect the provisions of section 44 of the Local Government Act, 1894, with respect to the persons whose names are marked by the revising barrister in pursuance of the section (sub-s. 10).

The local government register of electors, and the parliamentary register of electors, so far as they relate to a parish, will, together, form the register of the parochial electors of the parish (s. 44 (1)).

The separate list of persons who are entitled to be registered as parochial electors, but not as parliamentary or local government electors in a parish, is to form part of the register of parochial electors of the parish, and to be printed at the end of the other lists of electors for the parish, and the names are to be numbered consecutively with the other names on those lists, and the law relating to the register of electors is, with the necessary modifications, to apply accordingly, and the lists are, for the purposes of the Act, to be deemed to be part of the register of parochial electors (s. 44 (8)).

The register of parochial electors is generally conclusive for the purpose of determining the right of a person to vote in an election under the Act, or to attend a Parish Meeting. Any person whose name is not in that register will not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register will be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by the Local Government Act, 1894, or any other Act of Parliament (s. 44 (1)).

The lists and register of electors in any parish must be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards (s. 44 (3)).

Generally the lists and registers of parochial electors are to be made out in such parts as may be necessary for the first elections under the Act (s. 84 (4)).

Any County Council having under consideration any division into

Register of  
parochial  
electors.

Separate List.

Register  
conclusive.

Lists and  
Register for  
Wards of Urban  
Districts and  
Parishes.

Provision  
for 1894.



wards, or alteration of the boundaries of any parish, or union, or district, which is to affect the first elections in 1894, may direct that the lists of voters shall be framed in parts corresponding with the proposed division or alteration, so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered: and if the County Council making such division or alteration on or after the 1st of July, 1894, and on or before the last day of August, 1894, so direct, the clerk of the County Council must make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration is to be observed in the case of that election (s. 84 (3)).

Lists and  
Register to be  
framed in parts.

A division or alteration made after the last day of August, 1894, will be too late to affect the first election, unless provision has been made for the alteration or division in the preparation of the lists.

#### DISQUALIFICATIONS OF CANDIDATES AND MEMBERS OF PARISH AND DISTRICT COUNCILS.

Under section 46 of the Local Government Act, 1894, a person is disqualified for being elected or being a member, or chairman, of a Council of a parish or of a district other than a borough or of a Board of Guardians; if he—

(a) is an infant or an alien;

A person attains full age in law on the day before his or her twenty-first birthday.

Infancy and  
alienage.

The law relating to alienage is too lengthy to be given more than a passing note in this work. All persons who are born of parents in actual obedience to the Queen at any place within her dominions are British subjects. Generally the children and grandchildren of British subjects are, wherever born, British subjects. Persons who are born aliens may by letters of denization or certificate of naturalisation become British subjects [Naturalisation Act, 1870 (33 & 34 Vict. c. 14)]. The wife or widow of an alien is also an alien. A person born in Hanover whilst that kingdom was under the same sovereign as England became an alien at the accession of the Queen, when that kingdom ceased to be ruled by the English sovereign.—*Isaacson v. Durant*, 17 Q. B. D., 54.

(b) has within twelve months before his election, or since his election, received union or parochial relief;

Relief.

Relief to a wife is to be considered as given to her husband, and relief to a child under sixteen, not being blind or deaf and dumb, is to be considered as given to the father, or to the mother if a widow [Poor Law Amendment Act, 1834 (4 & 5 Will. IV. c. 76) s. 56]. Relief to the children of a wife by a former husband or to the illegitimate children of a wife, is relief to the husband (s. 57). Relief to an illegitimate child, when the mother is a single woman or a widow, is relief to the mother (s. 71). Relief to the husband or children of a married woman having separate property does not appear to be relief to her, notwithstanding her liability to maintain them under the Married Women's Property Act, 1882 (45 & 46 Vict. c. 75, ss. 20, 21).

<sup>1</sup> The qualifications for these offices have been referred to in previous chapters, where the constitution of the various bodies have been dealt with.

Disqualification  
of candidates and  
members.

Relief to a father is not considered to be relief to the son.—*R. v. Ireland*, L. R., 3 Q. B., 130; *Trotter v. Trevor*, 32 L. J., C. P., 59.

Persons employed by way of relief by guardians at wages have been held to have received parochial relief.—*Magarril v. Overseers of Whitehaven*, 16 Q. B. D., 242; 55 L. J., Q. B., 38.

Medical relief.

Payment of the school fees of the children of poor persons not being paupers [Elementary Education Act, 1876 (39 & 40 Vict. c. 79) s. 10] and vaccination by the public vaccinator [Vaccination Act, 1867 (30 & 31 Vict. c. 84) s. 26] do not disqualify; but other medical relief disqualifies a person to be a candidate or member of the different local authorities mentioned in section 46, as the Medical Relief Disqualification Removal Act, 1885 (48 & 49 Vict. c. 46)<sup>1</sup> only relieves from the disqualification for being registered as an elector and voting at elections.

Crime,  
Bankruptcy, &c.

- (c) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors;

The disqualification imposed on account of bankruptcy or of a composition or arrangement with creditors by this provision ceases, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full (sub-s. (4)).

A summary conviction under the Criminal Law and Procedure (Ireland) Act, 1887, for unlawfully taking part in a criminal conspiracy to interfere with the administration of the law in a proclaimed district in Ireland is a conviction for "crime."—*Conybeare v. London School Board* ([1891] 1 Q. B., 118; 60 L. J., Q. B., 44).

Paid officers.

- (d) holds any paid office under the Parish Council, or District Council, or Board of Guardians, as the case may be; or

Contracts.

- (e) is concerned in any bargain or contract entered into with the Council or Board, or participates in the profit of any such bargain or contract, or of any work done under the authority of the Council or Board (sub-s. (1)).

Exceptions.

But a person is not to be disqualified for being elected or being a member or chairman of any such Council or Board by reason of being interested—

- (a) in the sale or lease of any lands or in any loan of money to the Council or Board, or in any contract with the Council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood; or
- (b) in any newspaper in which any advertisement relating to the affairs of the Council or Board is inserted; or
- (c) in any contract with the Council or Board as a shareholder in any joint stock company. He must not, however, vote at

<sup>1</sup> See page 207.

any meeting of the Council or Board on any question in which such company are interested, but in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the County Council (sub-s. (2)).

Disqualification of candidates and members.

Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit as would disqualify him for being a parish councillor, the disqualification may be removed by the County Council if they are of opinion that such removal will be beneficial to the parish (sub-s. (3)).

Dispensation by County Council

There is no power to remove such a disqualification in the case of a member of a Board of Guardians or of a District Council or in the case of the chairman of the Parish Council. Where the chairman of the Parish Council has been elected from the parish councillors,<sup>1</sup> he may remain a councillor if the County Council remove the disqualification arising from his being concerned in any bargain or contract with the Council, but he cannot continue to be chairman.

The disqualifications arising from holding any paid office under the Parish Council, or District Council, or Board of Guardians, or from being concerned in any contract with the Council or Board, will generally have effect in relation to the Council or Board only under which the paid office is held or with whom the contract is entered into; but in the case of a rural district councillor who becomes disqualified he will, on ceasing to be qualified as a rural district councillor, also cease to be qualified to represent the parish or other area on the Board of Guardians (s. 24 (3)), as one and the same person must hold both offices. In the converse case of a person, who as a rural district councillor represents a parish or other area on the Board of Guardians, being disqualified to hold the office of guardian, it is specially provided that he shall also be disqualified for being a rural district councillor (sub-s. (5)).

If any person acts when disqualified, or votes when prohibited, he will for each offence be liable on summary conviction to a fine not exceeding twenty pounds (sub-s. (8)).

Penalties.

There are other statutory disqualifications besides those enumerated in section 46 of the Local Government Act, 1894, which apply to the membership of bodies elected under the Act. See, for instance, the disqualifications imposed by the 47 & 48 Vict. c. 70 (referred to on page 228), and by the Public Bodies Corrupt Practices Act, 1889 (52 & 53 Vict. c. 69). The latter statute makes it a misdemeanour to corrupt or bribe a servant, officer, or member of a public body, and for a servant, officer, or member to be corrupted or bribed. Among other penalties, which may be imposed by the Court upon conviction for an offence under the Act, is incapacity to

Other statutory disqualifications.

Corrupt and illegal practices at elections.

Bribery and corruption of officers and members of local authorities.

<sup>1</sup> See page 29.

Disqualification  
of candidates and  
members.

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be elected or appointed to any public office for seven years. Upon a second conviction an offender is liable to be adjudged to be for ever incapable of holding any public office (s. 2). The expression "public body" means any council of a county or county of a city or town, any council of a municipal borough, also any body which has power to act under and for the purposes of any Act relating to local government, or the public health, or to poor law or otherwise to administer money raised by rates in pursuance of any public general Act, and the expression "public office" means any office or employment of a person as a member, officer, or servant of such public body (s. 7).

### *Vacation of Office.*

Absence.

If a member of a Council of a parish, or of a district other than a borough, or of a Board of Guardians, is absent from meetings of the Council or Board for more than six months consecutively, except in case of illness or for some reason approved by the Council or Board, his office will on the expiration of those months become vacant (Local Government Act, 1894, s. 46 (6)).

The office of chairman of an Urban District Council does not appear, under this provision, to be vacated by reason of absence from meetings of the Council, as the person holding the office does not form, as chairman, part of the Council<sup>1</sup> in the same way as the chairman of a Parish Council<sup>2</sup> and the chairman of a Rural District Council<sup>3</sup> are respectively members of the Parish Council and Rural District Council.

Declaration by  
Council or  
Board.

Where a member of a council or Board of Guardians becomes disqualified for holding office, or vacates his seat for absence, the Council or Board are forthwith to declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the Clerk of the Council or Board, and notified in such manner as the Council or Board direct, and the office will thereupon become vacant (sub-s. (7)).

According to subsection (6), in the case of absence from meetings for more than six months consecutively, the office, on the expiration of those months becomes vacant; but according to subsection (7) it becomes vacant on the taking of the proceedings required by the subsection. The latter subsection must be held to govern the provisions of the former subsection.

### *Application to London and Woolwich.*

Section 46 applies in the case of any authority whose members are elected in accordance with the Act in like manner as if that authority

<sup>1</sup> See page 131.

<sup>2</sup> See page 29.

<sup>3</sup> See page 129.

were a District Council, and in the case of London auditors as if they were members of a District Council (sub-s. (9)).

Disqualification  
of candidates and  
members.

The disqualifications imposed by the section will therefore apply to the members of the London vestries and District Boards and of the Local Board of Woolwich,<sup>1</sup> as well as to London auditors.

London and  
Woolwich.

### PROCEDURE AT ELECTIONS.

In all elections under the Local Government Act, 1894, whether of Parish Councillors (s. 2 (2)), of Guardians (s. 20 (4)), of Rural District Councillors (s. 24 (4)), of Urban District Councillors (s. 23 (4)), or of members of the Vestries in the metropolis, and of the auditors of their accounts and members of the Local Board of Woolwich (s. 31 (1)), each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected. There is therefore no plural voting under the Act. Each elector must give his vote in person, and owners will no longer, as was the case in elections of Local Boards and of Guardians, have the privilege of voting by proxy. Corporations also will not be entitled to vote by an authorised agent.

One man one  
vote.

No plural voting  
or voting by  
proxy.

Elections under the Act will be conducted by ballot, except that an election of a Parish Councillor at a Parish Meeting may take place by show of hands unless a poll is demanded.

Ballot.

The election of a Parish Councillor is to be at a Parish Meeting, or at a poll consequent thereon (s. 48 (1)). A poll is not to be taken unless either the chairman of the Meeting assents or the poll is demanded by not less than five or one-third of the parochial electors present, whichever number is the least<sup>2</sup> (Schedule I., Part I. R. 7).

Election of  
parish councillor

### MODE OF ELECTION.

Parliament has only sketched out the general scheme for elections under the Act, and has left the details to be settled by means of Rules to be framed by the Local Government Board, which, notwithstanding anything in any other Act, will have effect as if enacted in the Local Government Act (ss. 3 (6), 20 (5), 23 (5), 24 (4), 31 (1)). The Rules will deal with the "nomination," as well as the election, of candidates, as the expression "election" includes both the nomination and the poll (s. 75 (2)). As the Local Government Board are empowered to adopt and alter certain statutory provisions mentioned in section 48, which are generally to apply, there will necessarily be uncertainty, until the Rules are issued, as to how far, and subject to what modifications, the incorporated enactments will be applicable to elections under the Act.

Rules by the  
Local Govern-  
ment Board.

<sup>1</sup> See page 141.

<sup>2</sup> See page 18.

Mode of Election.	Certain things must be provided by the Rules, namely :
Rules of Local Government Board provide for nomination ;	(i.) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more ;
voting once in a district,	(ii.) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district ;
or ward	(iii.) for preventing an elector at an election for a parish divided into parish wards <sup>1</sup> from subscribing a nomination paper or voting for more than one ward ;
time of poll :	(iv.) for fixing or enabling the County Council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening ;
-simultaneous elections ; and	But the Elections (Hours of Poll) Act, 1885 (48 Vict. c. 10), is to apply to elections to the London vestries (Local Government Act, 1894, s. 31 (1)). Under that Act the poll (if any) must be kept open from 8 a.m. to 8 p.m.
appointment of returning officers,	(v.) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ; (vi.) for the appointment of returning officers for the elections (s. 48 (1) ).
Date of coming into office.	It is contemplated by section 79 (1) that the existing Boards of Guardians and Urban and Rural Sanitary Authorities may be required by the Rules to appoint returning officers for the first elections. <sup>2</sup> The Rules may also fix the day for the coming into office of the persons first elected under the Act <sup>3</sup> (s. 84 (2) ).
Application of enactments.	At every election regulated by Rules framed under the Local Government Act, 1894, the poll is to be taken by ballot, and The Ballot Act, 1872 (35 & 36 Vict. c. 33) ; The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), sections 74 and 75 <sup>4</sup> , and Part IV, as amended by 47 & 48 Vict. c. 70, and ; The Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), including the penal provisions of those Acts are, <i>subject to adaptations, alterations, and exceptions made by the Rules</i> , to apply in like manner as in the case of a municipal election. But independently of the Rules, without exception, (a) section 6 of the Ballot Act, 1872, is to apply in the case of such elections, and the returning officer may, in addition to

<sup>1</sup> See page 199.<sup>2</sup> See page 232.<sup>3</sup> See page 6.<sup>4</sup> Section 75 of the 45 & 46 Vict. c. 50 imposes penalties for neglect in the preparation of lists or in the conduct of an election (see page 330 of the Appendix).

using the schools and public rooms therein referred to free of charge, for taking the poll, use the same, free of charge, for hearing objections to nomination papers and for counting votes ; and

Mode of  
Election  
—

(b) section 37 of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, is to apply as if the election were an election mentioned in the First Schedule to that Act.

The enactments referred to, so far as they are applicable to a municipal election, are set out at pages 296, 329, and 338 of the Appendix ; but it is not possible to determine to what extent they may be modified by the Rules to be framed by the Local Government Board. Bearing this in mind, some principal provisions may be noticed.

A poll (if any) will be taken under the secrecy of the ballot. The First Schedule of the Ballot Act, 1872, contains Rules for the conduct of elections, but no election is to be declared invalid if the election was conducted in accordance with the principles laid down in the body of the Act, and any non-compliance with the Rules did not affect the result of the election (s. 13).

Ballot.

Every returning officer is required to provide nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of registers of voters, and other things, and appoint and pay officers, and do other necessary acts and things for the purpose of effectually conducting the election (35 & 36 Vict. c. 33, s. 8 Sched. I, Part. I, R. 20).

Returning officer  
to provide  
nomination  
papers, ballot  
boxes, &c.

Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), is, on request, and if not required for immediate use by the authority, to be lent to the returning officer for an election under the Local Government Act, upon such conditions and either free of charge or, except in cases prescribed by the Local Government Board, for such reasonable charge as may be prescribed (Local Government Act, 1894, s. 48 (6) ).

Loan of ballot  
boxes and other  
fittings.

The returning officer is also entitled to use, free of charge, any room in a school receiving a parliamentary grant, and any room maintainable out of any local rate for the purpose of the poll (35 & 36 Vict. c. 33, s. 6), and for hearing objections to nomination papers and for counting votes (Local Government Act, 1894, s. 48 (3) ), subject to making good any damage done to the room and defraying any expenses incurred by the persons having control over the room on account of it being so used.

Use of school  
and other rooms  
for election  
purposes.

#### NOMINATION OF CANDIDATES.

The forgery or fraudulent defacement or destruction of a nomination paper is a misdemeanour punishable by imprisonment for a term

Forgery and  
destruction  
nomination  
papers.

Nomination of  
candidates.

not exceeding six months with or without hard labour (45 & 46 Vict. c. 50, s. 74).

Relation of  
nomination to  
election.

In the case of guardians and of district councillors of a county district not a borough, and of members of the Local Board of Woolwich and of a metropolitan vestry, among other enactments applied (*see* page 233), is section 56 of the Municipal Corporations Act, 1882, which provides for the relation of nomination to elections. The application of the enactment will be subject to the adaptations, alterations, and exceptions made by the Rules under the section.

If the number of valid nominations exceeds that of vacancies the councillors are elected from among the persons nominated.

If the number of valid nominations is the same as that of vacancies, the persons nominated are elected.

If the number of valid nominations is less than that of vacancies, the persons nominated are elected, and those retiring councillors who were highest at the poll at their elections, or, if the poll was equal, those who are selected for that purpose by the mayor are deemed to be re-elected to make up the required number.

If there is no valid nomination the retiring councillors remain in office.

#### PROCEEDINGS AT THE POLL.

Presiding officer

The Returning Officer appoints a Presiding Officer for each station to keep order. It is the duty of the Presiding Officer to regulate the number of electors to be admitted at a time, and to exclude all other persons except the clerks, the agents of the candidates, and the constables on duty (35 & 36 Vict. c. 33, Sched. I, Part I, R. 21). The candidates cannot be excluded—*Clementson v. Mason* 10 C. P., 209; 32 L.T., 325.

Mode of voting.

Each ballot paper contains a list of the candidates described as in their respective nomination papers, and arranged alphabetically (R. 22).

Immediately before a ballot paper is delivered to an elector, it is marked with the official mark, either on both sides, or stamped or perforated in such a manner as to show on both sides. The number, name, and description of the elector, as stated in the copy of the register of electors, is then called out, and the number of the elector is marked on the counterfoil, and a mark is placed in the register of electors, against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received (R. 24). The elector, on receiving the ballot paper, goes into one of the compartments in the polling station, and there marks his paper, and folds it up so as to conceal his vote, and then puts his paper, so folded up, into the ballot box (R. 25).



If any elector is blind, or unable from physical causes to vote in the manner prescribed ; or if any elector is of the Jewish persuasion, and objects (the poll being on Saturday) on religious grounds to vote in the manner prescribed ; or if any voter declares that he is unable to read ; then the Presiding Officer, upon the application of the elector, and in the presence of the candidates' agents, must cause the vote of an elector in such a position to be marked on a ballot paper for him, and the ballot paper to be placed in the ballot box, and the name and number of every elector whose vote is so marked is entered on a list called "The List of votes marked by the Presiding Officer."

Proceedings at  
the poll.

Cases where  
presiding officer  
marks ballot  
paper.

A voter unable to read must have a declaration of inability to read in the form given in Schedule II. to the Ballot Act, 1872, read over to him, and sign it with his mark at the time of polling (R. 26).

If a person, representing himself to be a particular elector named on the register of electors, applies for a ballot paper after another person has voted as such elector, the applicant is, upon duly answering the questions permitted to be asked of voters at the time of polling, entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper, which is called a tendered ballot paper, is of a different colour to the other ballot papers, and instead of being put into the ballot box must be given to the Presiding Officer. The Presiding Officer indorses it with the name of the voter, and his number in the roll of electors, and sets it aside in a separate packet. The name of the voter, and his number on the register of electors, is entered on a list called the tendered votes list (R. 27).

Tendered votes.

If a voter accidentally spoils his ballot paper, he may deliver the spoilt ballot paper to the Presiding Officer, and on satisfying him that the ballot paper was spoilt by inadvertence, may obtain another ballot paper in place of it, and the spoilt ballot paper must be immediately cancelled (R. 28).

Spoilt ballot  
papers.

The Presiding Officer of each station, as soon as practicable after the close of the poll, makes up in the presence of the candidates' agents into separate packets, sealed with his own seal, and the seals of such agents of the candidates as desire to affix their seals--

Packets of ballot  
papers to be  
sealed.

- (1) Each ballot box in use at his station, unopened, but with the key attached ;
- (2) The unused and spoilt ballot papers placed together ;
- (3) The tendered ballot papers ;
- (4) The marked copies of the register of electors, and the counter-foils of the ballot papers ;
- (5) The tendered votes list, and the list of votes marked by the Presiding Officer, and statement of the number of voters whose votes are so marked under the heads of "physical incapacity,"

Proceedings at  
the poll.

"Jews," and "unable to read," and the declarations of inability to read.

Packets of ballot  
papers to be  
delivered to  
returning officer.

These packets accompanied by a statement made by the Presiding Officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is called the ballot paper account, are to be delivered by him to the Returning Officer (Rs. 29, 30).

Counting the  
votes.

The Returning Officer must count the votes as soon after the close of the poll as practicable (R. 35).

He must give notice in writing to any agents appointed by the candidates to attend the counting of the votes (R. 31), of the time and place at which he will begin to count the votes (R. 32).

The Returning Officer, his assistants, the agents of the candidates and the candidates (*Clementson v. Mason*, cited above) are the only persons who have a right to be present at the counting (R. 33).

The counting is proceeded with as far as possible continuously, excluding however the hours between seven p.m. and nine a.m., except by arrangement with the agents (R. 35), so that, except by such arrangement, the counting will begin the day after the poll.

Before counting the votes, the Returning Officer mixes together all the ballot papers. He is required to count the votes without showing the numbers printed on the back of each Ballot Paper (R. 34).

He indorses as "rejected," any ballot paper he considers invalid, and adds to the indorsement "rejection objected to," if the agent of any candidate object to his rejection of the paper (R. 36).

On the completion of the counting the Returning Officer seals up in separate packets the counted and rejected ballot papers. He must not open the sealed packet of tendered ballot papers, the marked copy of the register of electors, or the counterfoils of the ballot papers, but he must proceed in the presence of the agents to verify the ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers and the tendered votes list. He re-seals each sealed packet (R. 37) after examination.

On each packet he indorses a description of its contents, the date of the election to which they relate, and the name of the parish, union, or district for which the election was held (R. 38).

To whom the custody of the sealed packets will be entrusted, will depend upon the Rules to be framed by the Local Government Board.

Declaration of  
poll.

The Returning Officer gives public notice as soon as possible, of the candidates elected, and in the case of a contested election, of the number of votes given for each candidate, whether elected or not (R. 45)

### CORRUPT AND ILLEGAL PRACTICES AND OTHER OFFENCES AT ELECTIONS.

The object of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (47 & 48 Vict. c. 70), is to secure the purity of elections to which the Act is made applicable. Object of provisions.

Certain provisions of the Act will not apply to elections under the Local Government Act on account of the application by section 48 (3) of the latter Act of section 37 of the Act of 1884, namely, those provisions which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses. Application of provisions.

Subject to these exceptions, and to such modifications as may be prescribed by the rules of the Local Government Board, the Act of 1884 will generally be applicable to elections under the Local Government Act, 1894. The elections of members of Local Boards and of Improvement Commissions, of guardians and of members of School Boards were made subject to the provisions of the 47 & 48 Vict. c. 70, so far as they were applicable to those elections by section 36 of that Act; but the Act will have a wider application to elections under the new Act, as they will be conducted by ballot and not by voting papers.

#### *Corrupt Practices.*

A corrupt practice under the Act means any of the following offences, namely, treating, undue influence, bribery and personation (s. 2). What are corrupt practices.

Treating is the corruptly giving or taking of meat, drink, entertainment, or provision, in order to corruptly influence the giving of a vote. Treating

Undue influence is the use of, or threat to make use of any force, violence, or restraint, or the infliction of, or threat to inflict any temporal or spiritual injury to influence the giving of a vote (*see* page 355). Undue influence.

A lengthy definition of bribery will be found in Schedule III, Part I, printed at page 353. It covers every corrupt inducement, including the payment of rates to a person to give his vote for a candidate, and the offence is committed by both the giver and receiver of a bribe. Bribery

Personation is the application for a voting paper in the name of Personation.

Corrupt and  
Illegal Practices.  
—

some other person, whether living, dead, or fictitious, or for a voting paper after having voted once at the same election (*see* page 354).

### *Illegal Practices.*

Among illegal practices under the Act may be mentioned :—

Inducing or procuring a person to vote knowing that he is prohibited from voting, and publishing a false statement of the withdrawal of a candidate for the purpose of procuring the election of another candidate. A candidate will not be liable, nor will his election be avoided for illegal practices under these heads committed without his knowledge or consent (s. 6).

A candidate printing or publishing a bill, placard, or poster without the name and address of the printer and publisher being *on the face of it*, is guilty of an illegal practice (s. 14).

The reference to the printer and publisher should be given as follows :—  
“Printed by ———, of ———, and published by ———, of ———.”

### *Illegal Payment and Hiring.*

Illegal payment.

Providing money for any payment contrary to the provisions of the Act (s. 9), and corruptly inducing any person to withdraw from being a candidate in consideration of payment or promise of payment, or withdrawing from being a candidate in pursuance of such inducement (s. 11) are illegal payments under the Act.

Illegal hiring.

Letting, lending, or employing for the conveyance of electors to or from the poll any public stage or hackney carriage; or hiring or using, or permitting to be hired or used, any premises licensed for the sale of intoxicating liquors, or used as a refreshment room, or club premises where liquor is supplied, as a committee room, or for holding meetings, except in certain cases, constitute the offence of illegal hiring. But private carriages may be lent gratuitously for the purposes of an election.

Various heavy punishments of imprisonment and fine are imposed for the different offences of corrupt and illegal practices, and illegal payment and hiring; and conviction also involves civil disabilities of a serious character.

### *Disqualification for Corrupt Practices.*

A person convicted on indictment or summarily, or reported by an Election Court to have been guilty, of corrupt practices, is, during a period of seven years from the date of his conviction, incapable—

- (i.) Of being registered as an elector or voting at an election in the United Kingdom, whether parliamentary or for any public office
- (ii.) Of holding any public or judicial office.

“Public office” includes :—

Any office under the crown.

The office of councillor, alderman, chairman of a County Council or mayor of a borough.

Any office under a County or Town Council, *e.g.*, clerk of the County Council or Town Clerk.

Any office under the Poor Law Acts, the Education Acts, or the Public Health Acts, or any other Acts relating to Local Government.

“Judicial office” includes, beside other judicial offices, those of Justice of the Peace and Revising Barrister.

(iii.) Of sitting in the House of Commons.

Further, where it is reported by an Election Court that any corrupt practice other than treating or undue influence has been committed in reference to an election with the knowledge and consent of a candidate, or that the offence of treating or undue influence has been committed by a candidate, such candidate will be incapable of ever holding any corporate office in the county or borough in respect of which the election took place. If it is reported by an Election Court that a candidate has been guilty by his agents of corrupt practices, the candidate will be incapacitated during a period of three years from the date of the report from holding the office of councillor, chairman, alderman, mayor, or elective auditor for the county or borough in an election for an office in which the offence was committed (s. 3).

#### *Disqualification for Illegal Practices.*

A person summarily convicted, or reported by an Election Court to have been guilty of illegal practices, is incapable, for five years from the date of the conviction or of the report, of voting at an election for any public office in the county or borough in which the offence was committed.

Further, if an Election Court report that a candidate was guilty by himself or his agents of an illegal practice, the candidate will be incapable of holding the office of councillor, chairman, alderman, or mayor, for the county or borough for which the election was held, during the period for which he was elected to serve, or if he had been elected, would have served.

#### *Relief from Offences.*

On application to the High Court the Court may relieve a candidate, agent or other person from the consequences of any act or omission otherwise constituting an illegal practice, which arose from inadvertence, or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith (s. 20).

#### ELECTION PETITION.

An election may be challenged by an election petition.

The judges annually appoint a number of barristers, not exceeding

Corrupt and  
Illegal Practices.  
—  
Disqualification  
for.

Election  
petition.

five, to be commissioners for the trial of election petitions under Part IV of the Municipal Corporations Act, 1882, and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and assign the petitions to be tried by each commissioner (47 & 48 Vict. c. 70, s. 36 (2)).

The Election Court thus constituted tries a petition without a jury in open court (45 & 46 Vict. c. 50, ss. 92, 93).

Rules for the procedure have been drawn up by the judges

Grounds of  
petition.

An election may be questioned by election petition on the ground—

- (a) That the election was wholly void by general bribery, treating, undue influence, or personation ; or
- (b) That the election of the candidate returned was void by corrupt or illegal practices ; or
- (c) That the person whose election is questioned was, at time of election, disqualified ;<sup>1</sup> or
- (d) That he was not duly elected by a majority of lawful votes : and on any of these grounds an election can be questioned by an election petition only (s. 87). It cannot, therefore, on any ground mentioned in the section, be questioned by a writ of *quo warranto* ; but that remedy is available where a person becomes disqualified after election.

Parties to  
petition and  
time of present-  
ing petition.

The petition may be presented by any four persons who voted or had a right to vote at the election, or by any person alleging himself to have been a candidate.

The petition must be presented within the following time :—

- (i.) In most cases within twenty-one days after the day on which the election was held.
- (ii.) If the petition complains of the election on the ground of corrupt practices and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected, or on his account, or with his connivance, in pursuance or furtherance of corrupt practices, the petition may be presented at any time within twenty-eight days after the date of the alleged payment or promise ; whether or not another petition has been previously presented or tried (s. 88).
- (iii.) If a petition complains of the election on the ground of an illegal practice, whether the illegal practice is or is not also a corrupt practice, and specifically alleges a payment of money or other act made or done since the election by the candidate elected, or by an agent of the candidate, or with the connivance of the candidate in pursuance or furtherance of such illegal practice, it may be presented at any time within twenty-eight days after the date of such payment or act ; whether or not any other petition has been previously presented or tried (47 & 48 Vict. c. 70, s. 25).

<sup>1</sup> See page 217.

Any person whose election is questioned, and any returning officer of whose conduct the petition complains, may be made a respondent. Election petition.

At the conclusion of the trial the Election Court determines whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void. The determination is certified in writing to the High Court, and the determination so certified is final.

Where the petition is on the ground of corrupt or illegal practices, the Election Court are to report to the High Court as follows:—

- (i.) Whether a corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge of any candidate at the election, and the nature of the corrupt or illegal practice.
- (ii.) The names of all persons proved at the trial to have been guilty of any corrupt or illegal practice (45 & 46 Vict. c. 50, s. 93).

The consequences of a report that corrupt or illegal practices have been committed, are, as regards the disqualification of the guilty persons, practically the same as the consequences of a conviction. In order, therefore, to relieve persons acting *bonâ fide*, the Court may report—

That the corrupt and illegal practices mentioned in the report were committed without the sanction or connivance of the candidate.

That all reasonable means to prevent the commission of such offences were taken by or on behalf of the candidate.

That the offences mentioned in the report were of a trivial, unimportant and limited character.

That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate or his agents.

If the Election Court so report, the election will not be set aside, nor will the candidate suffer any incapacity (47 & 48 Vict. c. 70, s. 19).

A list of persons incapacitated from voting by reason of conviction for offences against election law, or by reason of the report of an Election Court incapable of voting at elections, stating in the list the particular offence of which each person has been found guilty, is required by section 24 of the 47 & 48 Vict. c. 70,<sup>1</sup> to be made out annually.

#### REMOVAL BY COUNTY COUNCILS OF DIFFICULTIES AS RESPECTS ELECTIONS.

If any difficulty arises as respects the election of any individual

<sup>1</sup> See page 345 of the Appendix.

Removal of  
difficulties as  
respects  
elections.

councillor or guardian, or member of any Metropolitan vestry, or auditor, or member of the Local Board of Woolwich, and there is no provision for holding another election, the County Council may order a new election to be held, and give such directions as may be necessary for the purpose of holding the election (s. 48 (5)).

The provision in section 48 (5) relates only to the election of an individual member of the local authorities referred to, and it is applicable to an election whenever held. For the removal of difficulties connected with the first elections under the Act, and the first meetings of the newly constituted authorities, special provisions are enacted which are much wider in character.

First meetings  
and elections  
under the Act.

It is provided that if any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the Local Board of Woolwich, or of any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a Parish or District Council, or Board of Guardians, or Vestry, or the Local Board, or if, from no election being held or an election being defective or otherwise, the first Parish or District Council, or Board of Guardians, or Vestry, or Local Board, have not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the County Council may by order make any appointment or do any thing which appears to them to be necessary or expedient for the proper holding of any such first meeting or election, and properly constituting the Parish or District Council, Board of Guardians, Local Board, or Vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election; and fix the dates for any such meeting or election; but a parish shall, notwithstanding any such failure to constitute the Parish Council, be deemed to be a parish having a Parish Council within the meaning of the Act. Any such order as to the first Parish Meeting or first elections may modify the provisions of the Act, and the enactments applied by or rules framed under the Act so far as may appear to the County Council necessary or expedient for carrying the order into effect (s. 80 (1)).

Order may  
modify Act.

### FIRST ELECTIONS.

Existing  
authorities to  
conduct.

The existing Boards of Guardians and Urban and Rural Sanitary Authorities are required to take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under the Act, including any appointment of returning officers required by Rules under the Act (s. 79 (1)).

Date of  
Elections.

The first elections under the Act will be held on the 8th of



November, in the year 1894, or such later date or dates in that year as the Local Government Board may fix<sup>1</sup>.

#### SUPPLEMENTARY PROVISIONS.

The provisions of the Municipal Corporations Act, 1882 (45 & 46 Vict., c. 50), and the enactments amending the same, with respect to ; Applied enactments.

- (1) the expenses of elections of councillors of a borough ;
- (2) the acceptance of office ;
- (3) resignation ;
- (4) re-eligibility of holders of office, and ;
- (5) the filling of casual vacancies, and ;
- (6) section 56 of that Act<sup>2</sup> ;

are, *subject to the adaptations, alterations, and exceptions* made by the Rules of the Local Government Board in relation to elections, to apply in the case of guardians and of district councillors of a county district not a borough, and of members of the Local Board of Woolwich, and of a vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same. But—

- (a.) the provisions as to resignation will not apply to guardians, and district councillors of a rural district will be in the same position with respect to resignation as members of a Board of Guardians ; and
- (b.) nothing in the enactments applied by section 48 is to authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy is to be filled at the next ordinary election, and ;
- (c.) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore (s. 48 (4)).

Sections 34 to 40, 56 and 140 (1), Schedule III, Part III, R. 5, and Schedule V, Part II, R. 10., of the Municipal Corporations Act, 1882, which are the provisions referred to in this enactment, are printed at pages 329, 330, 337 and 338 of the Appendix. The application of those provisions will be subject to modifications made by the Local Government Board, and until the Rules are issued by that department it is not possible to say what will be the law on the subject to which the statutory provisions relate. A few principal requirements of the applied enactments may be mentioned. These provisions are not in any way made applicable to Parish Councils or Parish Meetings.

<sup>1</sup> A later date will be fixed by that Board. Under the Parochial Electors (Registration Acceleration) Bill, which accelerates the dates for the preparation of the register of parochial electors in 1894, that register will not come into operation until the 22nd of November, 1894. Mr. Shaw Lefevre in introducing the Bill on the 19th of April, 1894, said that under its provisions it would be possible to hold the first elections within a few days after the 22nd of November, 1894.

<sup>2</sup> See page 224.

Expenses of election.

(1) The expenses of a municipal election are defrayed out of the borough fund (Municipal Corporations Act, 1882, s. 140 (1); Schedule III, Part III, R. 5; Schedule V, Part II, R. 10).

Non-acceptance of office.

(2) Under section 34 of the same Act, a qualified person elected to an office must, if he does not by making a declaration (s. 35), accept office, pay a fine. The Council may by byelaw determine the amount of fine, but in no case is it to exceed £100.

Resignation.

(3) A similar fine is payable on resignation of office (s. 36). This will not be applicable to guardians and rural district councillors.

Re-eligibility of office holders.

(4) A person ceasing to hold office is, unless disqualified, re-eligible (s. 37).

Casual vacancies.

(5) On a casual vacancy, an election must be held in the same manner as an election to fill an ordinary vacancy, and the person elected will hold office only so long as the person in whose place he is elected would have held office. Non-acceptance of office creates a casual vacancy (s. 40).

The election is to be held within 14 days of notice of the casual vacancy being given to the mayor or town clerk (s. 66).

Under the Local Government Act, 1894, a casual vacancy occurring within six months before the ordinary day of retirement from the office in which the vacancy occurs, is not to be filled until the next ordinary election.

Resignation of guardians.

The Local Government Board may, under section 11 of the Poor Law Amendment Act, 1842 (5 & 6 Vict. c. 37), accept the resignation of any person elected as a guardian tendered for any cause which they may deem reasonable.

Expenses of election of guardians.

Generally, the expenses of the election of guardians is payable out of the union fund, but where an election of guardians is contested, the expenses incurred in consequence of the contest are under Article 35 of the General Consolidated Order issued by the Local Government Board on the 14th of February, 1877, to be charged to the parish in which the expenses have been incurred.

Not applicable to rural district councillors.

The Rules may provide that the incidence of the expenses for an election of guardians may remain unaltered, but in rural parishes there will be no election of guardians as such (Local Government Act, 1894, s. 24 (3)). Only as regards urban parishes can this matter be dealt with by the rules under the provision in section 48 (4) (c).

Scale of expenses.

The expenses of any election under the Local Government Act, 1894, are not to exceed the scale fixed by the county council, and if at the beginning of one month before the first election under the

<sup>1</sup> See page 232.

Act a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed will apply to the first election, and will have effect as if it had been made by the county council, but will not be alterable until after the first election (s. 48 (7)).

Section 48 is subject to any adaptations made by the rules of the Local Government Board, to apply in the case of every poll consequent on a parish meeting, as if it were a poll for the election of parish councillors (s. 48 (8)).

Polls at Parish Meetings.

The procedure at a poll consequent on a parish meeting, as determined by the rules, will probably be much simpler in character than the procedure at an annual election.

## CHAPTER XIII.

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### *Repeals—Effect of Repeal.*

Extent of  
Repeals.

THE Second Schedule of the Local Government Act, 1894,<sup>1</sup> contains a table of enactments which are expressly repealed as from the appointed day to the extent mentioned in the third column of the Schedule. The enactments repealed are provisions superseded, or practically repealed, by other provisions of the Act, and, where necessary, allusion has been made to the repeals in connection with the subjects to which the repealed provisions respectively relate. It is to be remembered that some of the provisions are repealed to a certain extent only; for instance, the provisions relating to vestries are repealed so far as they would otherwise relate to Parish Meetings and Parish Councils under the Act, and the provision in section 10 of the Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), which enables Corporations to vote as ratepayers by officers appointed for that purpose, is repealed so far as it relates to elections of guardians. That provision of the Act of 1867 may still have application where the owners and ratepayers vote, as in urban parishes and, in some instances, perhaps, in rural parishes also (*see* page 22).

General Repeal  
of inconsistent  
provisions.

Besides the express repeals contained in the Second Schedule, so much of any Act, whether public, general, or local and personal, as is inconsistent with the Local Government Act is also repealed (s. 89).

Effect of  
repealing  
section.

The effect of a repealing section of an Act depends upon section 38 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), which enacts that where any Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed, shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted; and where any Act repeals any other enactment, then unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or

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<sup>1</sup> *See* page 290 of the Appendix.

- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid :

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

*Appendix A.*

FULL TEXT OF THE  
**LOCAL GOVERNMENT ACT, 1894.**

[56 & 57 VICT. CH. 73.]

ARRANGEMENT OF SECTIONS.

PART I.

PARISH MEETINGS AND PARISH COUNCILS.

*Constitution of Parish Meetings and Parish Councils.*

Section.

1. Constitution of parish meetings and establishment of parish councils.
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26. Duties and powers of district council as to rights of way, rights of common, and roadside wastes.

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27. Transfer of powers of justices to district council.
  28. Expenses of urban district council.
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  32. Application to county boroughs of provisions as to transfer of justices' powers.
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## CHAPTER 73.

*An Act to make further provision for Local Government in England and Wales.* [5th March, 1894.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same, as follows :

### PART I.

#### PARISH MEETINGS AND PARISH COUNCILS.

##### *Constitution of Parish Meetings and Parish Councils.*

**Sect. 1.**—(1.) There shall be a parish meeting for every rural parish, and there shall be a parish council for every rural parish which has a population of three hundred or upwards : Provided that an order of the county council in pursuance of Part III. of this Act—

Constitution of parish meetings and establishment of parish councils.

(a.) shall, if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may, with the consent of the parish meeting of any rural parish having a population of less than one hundred, provide for establishing a parish council in the parish ; and

(b.) may provide for grouping a parish with some neighbouring parish or parishes under a common parish council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish.

(2.) For the purposes of this Act every parish in a rural sanitary district shall be a rural parish.

(3.) Where a parish is at the passing of this Act situate partly within and partly without a rural sanitary district, the part of the parish which is within the district, and the part which is without, shall as from the appointed day, but subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.<sup>1</sup>

39 & 40 Vict.  
c. 61.

**Sect. 2.**—(1.) The parish meeting for a rural parish shall consist of the following persons, in this Act referred to as parochial electors, and no others, namely, the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish.

Parish meetings

(2.) Each parochial elector may, at any parish meeting, or at any poll consequent thereon, give one vote and no more on any question, or, in the case of an election, for each of any number of persons not exceeding the number to be elected.

(3.) The parish meeting shall assemble at least once in every year, and the proceedings of every parish meeting shall begin not earlier than six o'clock in the evening.

<sup>1</sup> The effect of these Acts is set out at page 11.

56 & 57 Vict.  
c. 73, s. 2.

(4.) Subject to the provisions of this Act as to any particular person being the chairman of a parish meeting, the meeting may choose their own chairman.

(5.) A poll consequent on a parish meeting shall be taken by ballot.

(6.) The reasonable expenses of and incidental to the holding of a parish meeting or the taking of a poll consequent thereon shall be defrayed as herein-after provided.

(7.) With respect to parish meetings the provisions in the First Schedule to this Act shall have effect.

Constitution of  
parish council.

**Sect. 3.**—(1.) The parish council for a rural parish shall be elected from among the parochial electors of that parish or persons who have during the whole of the twelve months preceding the election resided in the parish, or within three miles thereof, and shall consist of a chairman and councillors, and the number of councillors shall be such as may be fixed from time to time by the county council, not being less than five nor more than fifteen.

(2.) No person shall be disqualified by sex or marriage for being elected or being a member of a parish council.

(3.) The term of office of a parish councillor shall be one year.

(4.) On the fifteenth day of April in each year (in this Act referred to as the ordinary day of coming into office of councillors) the parish councillors shall go out of office, and their places shall be filled by the newly elected councillors.

(5.) The parish councillors shall be elected by the parochial electors of the parish.

(6.) The election of parish councillors shall, subject to the provisions of this Act, be conducted according to rules framed under this Act for that purpose by the Local Government Board.

(7.) The parish council shall in every year, on or within seven days after the ordinary day of coming into office of councillors, hold an annual meeting.

(8.) At the annual meeting, the parish council shall elect from their own body or from other persons qualified to be councillors of the parish, a chairman, who shall, unless he resigns, or ceases to be qualified, or becomes disqualified, continue in office until his successor is elected.

(9.) Every parish council shall be a body corporate by the name of the parish council, with the addition of the name of the parish, or if there is any doubt as to the latter name, of such name as the county council after consultation with the parish meeting of the parish direct, and shall have perpetual succession, and may hold land for the purposes of their powers and duties without licence in mortmain; and any act of the council may be signified by an instrument executed at a meeting of the council, and under the hands or, if an instrument under seal is required, under the hands and seals, of the chairman presiding at the meeting and two other members of the council.

(10.) With respect to meetings of parish councils the provisions in the First Schedule to this Act shall have effect.

Use of  
schoolroom.

**Sect. 4.**—(1.) In any rural parish in which there is no suitable public room vested in the parish council or in the chairman of a parish meeting and the overseers which can be used free of charge for the purposes in this section mentioned, the parochial electors and the parish council shall be entitled to use, free of charge, at all reasonable times, and after reasonable notice, for the purpose of—

(a) the parish meeting or any meeting of the parish council; or

(b) any inquiry for parochial purposes by the Local Government Board or any other Government department or local authority; or

(c) holding meetings convened by the chairman of the parish meeting or by the parish council, or if as to allotments in the manner prescribed by the Allotments Act, 1890,<sup>1</sup> or otherwise as the Local Government Board may by rule prescribe, to discuss any question relating to allotments, under the Allotments Acts, 1887 and 1890, or under this Act; or

53 & 54 Vict.  
c. 65.

<sup>1</sup> See section 5 of the Allotments Act, 1890, page 358.

- (d) the candidature of any person for the district council or the parish council ;  
or  
(e) any committee or officer appointed, either by the parish meeting or council or by a county or district council, to administer public funds within or for the purposes of the parish

any suitable room in the schoolhouse of any public elementary school receiving a grant out of moneys provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate :

Provided that this enactment shall not authorise the use of any room used as part of a private dwelling-house, nor authorise any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police, with the hours during which it is used for these purposes.

(2.) If, by reason of the use of the room for any of the said purposes, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part or its appurtenances, or the furniture of the room or the apparatus for instruction, the expense or damage shall be defrayed as part of the expenses of the parish meeting or parish council or inquiry as the case may be ; but when the meeting is called for the purpose of the candidature of any person, such expense or damage shall be reimbursed to the parish meeting or the parish council by the persons by whom or on whose behalf the meeting is convened.

(3) If any question arises under this section as to what is reasonable or suitable, it may be determined, in the case of a schoolhouse by the Education Department, in the case of a room used for the administration of justice or police by a Secretary of State, and in any other case by the Local Government Board.

### *Powers and Duties of Parish Councils and Parish Meetings.*

**Sect. 5.**—(1.) The power and duty of appointing overseers of the poor, and the power of appointing and revoking the appointment of an assistant overseer, for every rural parish having a parish council, shall be transferred to and vested in the parish council, and that council shall in each year, at their annual meeting, appoint the overseers of the parish, and shall as soon as may be fill any casual vacancy occurring in the office of overseer of the parish, and shall in either case forthwith give written notice thereof in the prescribed form to the board of guardians.

Parish Council to appoint overseers.

(2.) As from the appointed day—

(a.) the churchwardens of every rural parish shall cease to be overseers, and an additional number of overseers may be appointed to replace the churchwardens and

(b.) references in any Act to the churchwardens and overseers shall, as respects any rural parish, except so far as those references relate to the affairs of the church, be construed as references to the overseers, and

(c.) the legal interest in all property vested either in the overseers or in the churchwardens and overseers of a rural parish, other than property connected with the affairs of the church, or held for an ecclesiastical charity, shall, if there is a parish council, vest in that council, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers, if any, as are requisite for giving effect to this enactment.

**Sect. 6.**—(1.) Upon the parish council of a rural parish coming into office, there shall be transferred to that council :—

Transfer of certain powers of vestry and other authorities to parish council.

(a.) The powers, duties, and liabilities of the vestry of the parish except —

(i.) so far as relates to the affairs of the church or to ecclesiastical charities, and

(ii.) any power, duty, or liability transferred by this Act from the vestry to any other authority :

56 & 57 Vict.  
c. 73, s. 6.

13 & 19 Vict.  
c. 123.

(b.) The powers, duties, and liabilities of the churchwardens of the parish, except so far as they relate to the affairs of the church or to charities, or are powers and duties of overseers, but inclusive of the obligations of the churchwardens with respect to maintaining and repairing closed churchyards wherever the expenses of such maintenance and repair are repayable out of the poor rate under the Burial Act, 1855;<sup>1</sup> Provided that such obligations shall not in the case of any particular parish be deemed to attach, unless or until the churchwardens subsequently to the passing of this Act shall give a certificate, as in the Burial Act, 1855,<sup>1</sup> provided in order to obtain the repayment of such expenses out of the poor rate.

(c.) The powers, duties, and liabilities of the overseers or of the churchwardens and overseers of the parish with respect to—

(i.) appeals or objections by them in respect of the valuation list, or appeals in respect of the poor rate, or county rate, or the basis of the county rate; and

(ii.) the provision of parish books and of a vestry room or parochial office, parish chest, fire engine, fire escape, or matters relating thereto; and

(iii.) the holding or management of parish property, not being property relating to affairs of the church or held for an ecclesiastical charity, and the holding or management of village greens, or of allotments, whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them;

(d.) The powers exercisable with the approval of the Local Government Board by the board of guardians for the poor law union comprising the parish in respect of the sale, exchange or letting of any parish property.

(2.) A parish council shall have the same power of making any complaint or representation as to unhealthy dwellings or obstructive buildings as is conferred on inhabitant householders by the Housing of the Working Classes Act, 1890,<sup>2</sup> but without prejudice to the powers of such householders.

(3.) A parish council shall have the same power of making a representation with respect to allotments, and of applying for the election of allotment managers, as is conferred on parliamentary electors by the Allotment Acts, 1887,<sup>3</sup> or the Allotments Act 1890,<sup>4</sup> but without prejudice to the powers of those electors.

(4.) Where any Act constitutes any persons wardens for allotments, or authorises or requires the appointment or election of any wardens committee or managers for the purpose of allotments, then after a parish council for the parish interested in such allotments comes into office, the powers and duties of the wardens, committee, or managers shall be exercised and performed by the parish council, and it shall not be necessary to make the said appointment or to hold the said election, and for the purpose of section sixteen of the Small Holdings Act, 1892,<sup>5</sup> two members of the parish council shall be substituted for allotment managers or persons appointed as allotment managers.

Transfer of  
powers under  
adoptive Acts.

3 & 4 Will. 4, c. 90

9 & 10 Vict. c. 74.

45 & 46 Vict. c. 30

15 & 16 Vict. c. 85

48 & 49 Vict. c. 21

23 & 24 Vict. c. 30

55 & 56 Vict. c. 53

**Sect. 7.**—(1.)—As from the appointed day, in every rural parish the parish meeting shall, exclusively, have the power of adopting any of the following Acts, inclusive of any Acts amending the same (all which Acts are in this Act referred to as “the adoptive Acts”); namely,—

(a.) The Lighting and Watching Act, 1833;<sup>6</sup>

(b.) The Baths and Washhouses Acts, 1846 to 1882;<sup>7</sup>

(c.) The Burial Acts, 1852 to 1885;<sup>8</sup>

(d.) The Public Improvements Act, 1860;<sup>9</sup>

(e.) The Public Libraries Act, 1892.<sup>10</sup>

(2.) Where under any of the said Acts a particular majority is required for the adoption or abandonment of the Act, or for any matter under such Act, the like majority of the parish meeting or, if a poll is taken, of the parochial electors, shall be required, and where under any of the said Acts the opinion of the voters is to be ascertained by voting papers, the opinion of the parochial electors shall be ascertained by a poll taken in manner provided by this Act.

(3.) Where under any of the said Acts the consent or approval of, or other act on the part of, the vestry of a rural parish is required in relation to any expense or rate, the parish meeting shall be substituted for the vestry, and for this purpose the expression "vestry" shall include any meeting of ratepayers or voters.

(4.) Where there is power to adopt any of the adoptive Acts for a part only of a rural parish, the Act may be adopted by a parish meeting held for that part.

(5.) Where the area under any existing authority acting within a rural parish in the execution of any of the adoptive Acts is co-extensive with the parish, all powers, duties, and liabilities of that authority shall, on the parish council coming into office, be transferred to that council.

(6.) This Act shall not alter the incidence of charge of any rate levied to defray expenses incurred under any of the adoptive Acts, and any such rate shall be made and charged as heretofore, and any property applicable to the payment of such expenses shall continue to be so applicable.

(7.) When any of the adoptive Acts is adopted for the whole or part of a rural parish after the appointed day, and the parish has a parish council, the parish council shall be the authority for the execution of the Act.

(8.) For the purposes of this Act the passing of a resolution to provide a burial ground under the Burial Acts, 1852 to 1885, shall be deemed an adoption of those Acts.

**Sect. 8.—(1.)** A parish council shall have the following additional powers, namely, power—

56 & 57 Vict.  
c. 73, s. 7.

Additional  
powers of parish  
council.

- (a) to provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting; and
- (b) to provide or acquire land for such buildings and for a recreation ground and for public walks; and

#### References.

<sup>1</sup> *As to closed churchyards, see page 50.*

<sup>2</sup> *See page 59.*

<sup>3</sup> *See sections 2 & 9 of the Act of 1887, pages 357 and 360.*

<sup>4</sup> *See section 2 of the Act of 1890, page 371.*

<sup>5</sup> *Section 16 of the Small Holdings Act, 1892, provides as follows:—*

55 & 56 Vict.  
c. 31, s. 16.

“(1.) Where a county council provide small holdings they may delegate, with or without restrictions, the powers of the county council under this Act with respect to the adaptation of land, for any holdings, and the sale, letting, and management of any holdings to a committee consisting of—

“The county councillor representing the electoral division in which the holdings are situate; and

“Two other members of the county council; and

“Two of the allotment managers (if any) under the Allotments Act, 1887, for the parish or area in which the holdings are situate selected by those managers, or if there are no allotment managers, two persons appointed in manner provided by that Act for the appointment of allotment managers; or

“If the holdings are situate within the limits of a municipal borough, then, instead of the persons selected or appointed as aforesaid, two members of the borough council;

“and in the construction of this Act references to the county council shall, in their application to the powers so delegated, include any such committee. Provided that a county council shall not under this section delegate any powers of making or levying a rate or of borrowing money.

“(2.) The Local Government Act, 1888, shall apply to any committee appointed under this section as if it were appointed under that Act.”

<sup>6</sup> *See page 89.*

<sup>7</sup> *See page 92.*

<sup>8</sup> *See page 95.*

<sup>9</sup> *See page 98.*

<sup>10</sup> *See page 99.*

#### References.

56 & 57 Vict.  
c. 73, s. 8,

39 & 40 Vict.  
c. 56.

33 & 39 Vict.  
c. 55.  
53 & 54 Vict.  
c. 59.

(c) to apply to the Board of Agriculture under section nine of the Commons Act, 1876;<sup>1</sup> and

(d) to exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under section one hundred and sixty-four of the Public Health Act, 1875,<sup>2</sup> or section forty-four of the Public Health Acts Amendment Act, 1890,<sup>3</sup> in relation to recreation grounds or public walks, and sections one hundred and eighty-three to one hundred and eighty-six of the Public Health Act, 1875,<sup>4</sup> shall apply accordingly as if the parish council were a local authority within the meaning of those sections; and

(e) to utilise any well, spring, or stream within their parish and provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and

(f) to deal with any pond, pool, open ditch, drain, or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority; and

(g) to acquire by agreement any right of way, whether within their parish or an adjoining parish, the acquisition of which is beneficial to the inhabitants of the parish or any part thereof; and

(h) to accept and hold any gifts of property, real or personal, for the benefit of the inhabitants of the parish or any part thereof; and

(i) to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of any of the foregoing powers, or in relation to any parish property, not being property relating to affairs of the church or held for an ecclesiastical charity; and

(k) to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above-mentioned.

(2.) A parish council may let, or, with the consent of the parish meeting, sell or exchange, any land or buildings vested in the council, but the power of letting for more than a year and the power of sale or exchange shall not be exercised, in the case of property which has been acquired at the expense of any rate, or is at the passing of this Act applied in aid of any rate, or would but for want of income be so applied, without the consent of the Local Government Board, or in any other case without such consent or approval as is required under the Charitable Trust Acts, 1853 to 1891,<sup>5</sup> for the sale of charity estates, provided that the consent or approval required under those Acts shall not be required for the letting for allotments of land vested in the parish council.

(3.) Nothing in this section shall derogate from any obligation of a district council with respect to the supply of water or the execution of sanitary works.

(4.) Notice of any application to the Board of Agriculture in relation to a common shall be served upon the council of every parish in which any part of the common to which the application relates is situate.

Powers for  
acquisition of  
land.

38 & 39 Vict.  
c. 55.

**Sect. 9.—(1.)** For the purpose of the acquisition of land by a parish council the Lands Clauses Acts<sup>6</sup> shall be incorporated with this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section one hundred and seventy-eight of the Public Health Act, 1875,<sup>7</sup> shall apply as if the parish council were referred to therein.

(2.) If a parish council are unable to acquire by agreement and on reasonable terms suitable land for any purpose for which they are authorised to acquire it, they may represent the case to the county council, and the county council shall inquire into the representation.

50 & 51 Vict.  
c. 48.  
53 & 54 Vict.  
c. 65.

(3.) If on any such representation, or on any proceeding under the Allotments Acts, 1887 and 1890,<sup>8</sup> a county council are satisfied that suitable land for the said purpose of the parish council or for the purpose of allotments (as the case may

be), cannot be acquired on reasonable terms by voluntary agreement, and that the circumstances are such as to justify the county council in proceeding under this section, they shall cause such public inquiry to be made in the parish, and such notice to be given both in the parish and to the owners, lessees, and occupiers of the land proposed to be taken as may be prescribed, and all persons interested shall be permitted to attend at the inquiry, and to support or oppose the taking of the land.

(4.) After the completion of the inquiry, and considering all objections made by any persons interested, the county council may make an order for putting in force, as respects the said land or any part thereof, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.<sup>9</sup>

(5.) If the county council refuse to make any such order, the parish council, or, if the proceeding is taken on the petition of the district council, then the district council, may petition the Local Government Board, and that Board after local inquiry may, if they think proper, make the order, and this section shall apply as if the order had been made by the county council. Any order made under this subsection overruling the decision of the county council shall be laid before Parliament by the Local Government Board.

(6.) A copy of any order made under this section shall be served in the prescribed manner, together with a statement that the order will become final and have the effect of an Act of Parliament, unless within the prescribed period a memorial by some person interested is presented to the Local Government Board praying that the order shall not become law without further inquiry.

(7.) The order shall be deposited with the Local Government Board, who shall inquire whether the provisions of this section and the prescribed regulations have been in all respects complied with; and if the Board are satisfied that this has been done, then, after the prescribed period—

#### References.

<sup>1</sup> *This enactment provides that* “the [Board of Agriculture] shall from time to time, upon application made by the persons interested in any common, issue in such form as they may deem expedient information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act, are to be made to the [Board] with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the [Board of Agriculture].”

<sup>2</sup> *See page 312.*

<sup>3</sup> *The section is as follows:—*“(1.) An urban authority may on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion) close to the public any park or pleasure ground provided by them or any part thereof, and may grant the use of the same, either gratuitously or for payment, to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose, or may use the same for any such show or purpose; and the admission to the said park or pleasure ground, or such part thereof, on the days when the same shall be so closed to the public may be either with or without payment, as directed by the urban authority, or, with the consent of the urban authority, by the society or persons to whom the use of the park or pleasure ground, or such part thereof, may be granted: Provided that no such park or pleasure ground shall be closed on any Sunday or public holiday. (2.) An urban authority may either themselves provide and let for hire, or may license any person to let for hire, any pleasure boats on any lake or piece of water in any such park or pleasure ground, and may make byelaws for regulating the numbering and naming of such boats, the number of persons to be carried therein, the boathouses and mooring places for the same, and for fixing rates of hire and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat.”

<sup>4</sup> *See pages 313 and 314.*

<sup>5</sup> *See page 56.*

<sup>6</sup> *See page 104.*

<sup>7</sup> *See page 313.*

<sup>8</sup> *See pages 357 and 370.*

<sup>9</sup> *See page 104.*

56 & 57 Vict.  
c. 73, s. 9.

#### References.

39 & 40 Vict.  
c. 56, s. 9.

53 & 54 Vict.  
c. 59, s. 44.

56 & 57 Vict.  
c. 73, s. 9.

(a.) If no memorial has been presented, or if every such memorial has been withdrawn, the Board shall, without further inquiry, confirm the order :

(b.) If a memorial has been presented, the Local Government Board shall proceed to hold a local inquiry, and shall, after such inquiry, either confirm, with or without amendment, or disallow the order :

(c.) Upon any such confirmation the order, and if amended as so amended, shall become final and have the effect of an Act of Parliament, and the confirmation by the Local Government Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made, and is within the powers of this Act.

(8.) Sections two hundred and ninety-three to two hundred and ninety-six, and subsections (1) and (2) of section two hundred and ninety-seven of the Public Health Act, 1875,<sup>1</sup> shall apply to a local inquiry held by the Local Government Board for the purposes of this section, as if those sections and subsections were herein re-enacted, and in terms made applicable to such inquiry.

(9.) The order shall be carried into effect, when made on the petition of a district council, by that council, and in any other case by the county council.

(10.) Any order made under this section for the purpose of the purchase of land otherwise than by agreement shall incorporate the Lands Clauses Acts<sup>2</sup> and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845,<sup>3</sup> with the necessary adaptations, but any question of disputed compensation shall be dealt with in the manner provided by section three of the Allotments Act, 1887,<sup>4</sup> and provisoes (a), (b), and (c) of subsection (4) of that section are incorporated with this section and shall apply accordingly : Provided that in determining the amount of disputed compensation, the arbitrator shall not make any additional allowance in respect of the purchase being compulsory.

(11.) At any inquiry or arbitration held under this section the person or persons holding the inquiry or arbitration shall hear any authorities or parties interested by themselves or their agents, and shall hear witnesses, but shall not, except in such cases as may be prescribed, hear counsel or expert witnesses.

(12.) The person or persons holding a public inquiry for the purposes of this section on behalf of a county council shall have the same powers as an inspector or inspectors of the Local Government Board when holding a local inquiry : and section two hundred and ninety-four of the Public Health Act, 1875,<sup>5</sup> shall apply to the costs of inquiries held by the county council for the purpose of this section as if the county council were substituted for the Local Government Board.

(13.) Subsection (2) of section two, if the land is taken for allotments, and, whether it is or is not so taken, subsections (5), (6), (7), and (8) of section three of the Allotments Act, 1887,<sup>4</sup> and section eleven of that Act,<sup>6</sup> and section three of the Allotments Act, 1890,<sup>7</sup> are incorporated with this section, and shall, with the prescribed adaptations, apply accordingly.

(14.) Where the land is acquired otherwise than for allotments, it shall be assured to the parish council ; and any land purchased by a county council for allotments under the Allotments Acts, 1887 and 1890, and this Act, or any of them, shall be assured to the parish council, and in that case sections five to eight of the Allotments Act, 1887,<sup>8</sup> shall apply as if the parish council were the sanitary authority.

(15.) Nothing in this section shall authorise the parish council to acquire otherwise than by agreement any land for the purpose of any supply of water, or of any right of way.

(16.) In this section the expression "allotments" includes common pasture where authorised to be acquired under the Allotments Act, 1887.<sup>9</sup>

(17.) Where, under the Allotments Act, 1890, the Allotments Act, 1887, applies to the purchase of land by the county council, that Act shall apply as amended by this section, and the parish council shall have the like power of

<sup>1</sup> See page 326.

<sup>2</sup> See page 110.

<sup>3</sup> See pages 294 and 295.

<sup>4</sup> See page 358.

<sup>5</sup> See page 326.

<sup>6</sup> See page 360.

<sup>7</sup> See page 371.

<sup>8</sup> See pages 358 to 360.

<sup>9</sup> See section 12 of the Act, page 361.

8 & 9 Vict.  
c. 20.

50 & 51 Vict.  
c. 48.  
53 & 54 Vict.  
c. 65.



petitioning the county council as is given to six parliamentary electors by section two of the Allotments Act, 1890.<sup>1</sup>

56 & 57 Vict.  
c. 73, s. 9.

(18.) This section shall apply to a county borough with the necessary modifications, and in particular with the modification that the order shall be both made and confirmed by the Local Government Board and shall be carried into effect by the council of the county borough.

(19.) The expenses of a county council incurred under this section shall be defrayed in like manner as in the case of a local inquiry by a county council under this Act.

**Sect. 10.**—(1.) The parish council shall have power to hire land for allotments, and if they are satisfied that allotments are required, and are unable to hire by agreement on reasonable terms suitable land for allotments, they shall represent the case to the county council, and the county council may make an order authorising the parish council to hire compulsorily for allotments, for a period not less than fourteen years nor more than thirty-five years, such land in or near the parish as is specified in the order, and the order shall, as respects confirmation and otherwise, be subject to the like provisions as if it were an order of the county council made under the last preceding section of this Act, and that section shall apply as if it were herein re-enacted with the substitution of "hiring" for "purchase" and with the other necessary modifications.

Hiring of  
land for  
allotments

(2.) A single arbitrator, who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887,<sup>2</sup> and to whom the provisions of that section shall apply, shall have power to determine any question—

- (a) as to the terms and conditions of the hiring; or
- (b) as to the amount of compensation for severance; or
- (c) as to the compensation to any tenant upon the determination of his tenancy; or
- (d) as to the apportionment of the rent between the land taken by the parish council and the land not taken from the tenant; or
- (e) as to any other matter incidental to the hiring of the land by the council, or the surrender thereof at the end of their tenancy;

but the arbitrator in fixing the rent shall not make any addition in respect of compulsory hiring.

(3.) The arbitrator, in fixing rent or other compensation, shall take into consideration all the circumstances connected with the land, and the use to which it might otherwise be put by the owner during the term of hiring, and any depreciation of the value to the tenant of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council.

(4.) Any compensation awarded to a tenant in respect of any depreciation of the value to him of the residue of his holding caused by the withdrawal from the holding of the land hired by the parish council shall as far as possible be provided for by taking such compensation into account in fixing, as the case may require, the rent to be paid by the parish council for the land hired by them, and the apportioned rent, if any, to be paid by the tenant for that portion of the holding which is not hired by the parish council.

(5.) The award of the arbitrator or a copy thereof, together with a report signed by him as to the condition of the land taken by the parish council, shall be deposited and preserved with the public books, writings, and papers of the parish, and the owner for the time being of the land shall at all reasonable times be at liberty to inspect the same and to take copies thereof.

(6.) Save as hereinafter mentioned, sections five to eight of the Allotments Act, 1887,<sup>3</sup> shall apply to any allotment hired by a parish council in like manner as if that council were the sanitary authority and also the allotment managers:

Provided that the parish council—

- (a) may let to one person an allotment or allotments exceeding one acre, but, if the land is hired compulsorily, not exceeding in the whole four acres of pasture or one acre of arable and three acres of pasture; and

<sup>1</sup> See page 371.

<sup>2</sup> See page 358.

See pages 358 to 360.

56 & 57 Vict.  
c. 73, s. 10.

(b) may permit to be erected on the allotment any stable, cowhouse, or barn ; and

(c) shall not break up, or permit to be broken up, any permanent pasture, without the assent in writing of the landlord.

(7.) On the determination of any tenancy created by compulsory hiring a single arbitrator who shall be appointed in accordance with the provisions of section three of the Allotments Act, 1887,<sup>1</sup> shall have power to determine as to the amount due by the landlord for compensation for improvements, or by the parish council for depreciation, but such compensation shall be assessed in accordance with the provisions of the Agricultural Holdings (England) Act, 1883.

(8.) The order for compulsory hiring may apply, with the prescribed adaptations, such of the provisions of the Lands Clauses Acts (including those relating to the acquisition of land otherwise than by agreement)<sup>2</sup> as appear to the county council or Local Government Board sufficient for carrying into effect the order, and for the protection of the persons interested in the land and of the parish council.

(9.) Nothing in this section shall authorise the compulsory hiring of any mines or minerals, or confer any right to take, sell, or carry away any gravel, sand, or clay, or authorise the hiring of any land which is already owned or occupied as a small holding within the meaning of the Small Holdings Act, 1892.<sup>3</sup>

(10.) If the land hired under this section shall at any time during the tenancy thereof by the parish council be shown to the satisfaction of the county council to be required by the landlord for the purpose of working and getting the mines, minerals, or surface minerals thereunder, or for any road or work to be used in connexion with such working or getting, it shall be lawful for the landlord of such land to resume possession thereof upon giving to the parish council twelve calendar months previous notice in writing of his intention so to do, and upon such resumption the landlord shall pay to the parish council and to the allotment holders of the land for the time being such sum by way of compensation for the loss of such land for the purposes of allotments as may be agreed upon by the landlord and the parish council, or in default of such agreement as may be awarded by a single arbitrator to be appointed in accordance with the provisions of section three of the Allotments Act, 1887,<sup>4</sup> and the provisions of that section shall apply to such arbitrator.

The word "landlord" in this subsection means the person for the time being entitled to receive the rent of the land hired by the parish council.

(11.) The Local Government Board shall annually lay before Parliament a report of any proceedings under this and the preceding section.

Restrictions on  
expenditure.

**Sect. 11.**—(1.) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities which will involve a rate exceeding three-pence in the pound for any local financial year, or which will involve a loan.

(2.) A parish council shall not, without the approval of the county council, incur any expense or liability which will involve a loan.

(3.) The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts) shall not exceed a sum equal to a rate of sixpence in the pound on the rateable value of the parish at the commencement of the year, and for the purpose of this enactment the expression "expenses" includes any annual charge, whether of principal or interest, in respect of any loan.

(4.) Subject to the provisions of this Act, the expenses of a parish council and of a parish meeting, including the expenses of any poll, shall be paid out of the poor rate : and where there is a parish council that council shall pay the said expenses of the parish meeting of the parish ; and the parish council, and where there is no parish council the chairman of the parish meeting, shall, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund.

<sup>1</sup> See page 371.    <sup>2</sup> See page 118.    <sup>3</sup> See pages 104 and 110.    <sup>4</sup> See page 116.

(5.) The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, shall state in the prescribed form the proportion of the rate levied for the expenses of the council or meeting, and the proportion (if any) levied for the purpose of any of the adoptive Acts.

56 & 57 Vict.  
c. 73, s. 11.

**Sect. 12.**—(1.) A parish council for any of the following purposes, that is to say—

Borrowing by  
parish council.

(a) for purchasing any land, or building any buildings, which the council are authorised to purchase or build; and

(b.) for any purpose for which the council are authorised to borrow under any of the adoptive Acts; and

(c.) for any permanent work or other thing which the council are authorised to execute or do, and the cost of which ought, in the opinion of the county council and the Local Government Board, to be spread over a term of years;

may, with the consent of the county council and the Local Government Board, borrow money in like manner and subject to the like conditions as a local authority may borrow for defraying expenses incurred in the execution of the Public Health Acts, and sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine of the Public Health Act, 1875,<sup>1</sup> shall apply accordingly, except that the money shall be borrowed on the security of the poor rate and of the whole or part of the revenues of the parish council, and except that as respects the limit of the sum to be borrowed, one half of the assessable value shall be substituted for the assessable value for two years.

38 & 39 Vict.  
c. 55.

(2.) A county council may lend to a parish council any money which the parish council are authorised to borrow, and may, if necessary, without the sanction of the Local Government Board, and irrespectively of any limit of borrowing, raise the money by loan, subject to the like conditions and in the like manner as any other loan for the execution of their duties, and subject to any further conditions which the Local Government Board may by general or special order impose.

(3.) A parish council shall not borrow for the purposes of any of the adoptive Acts otherwise than in accordance with this Act, but the charge for the purpose of any of the adoptive Acts shall ultimately be on the rate applicable to the purposes of that Act.

**Sect. 13.**—(1.) The consent of the parish council and of the district council shall be required for the stopping, in whole or in part, or diversion, of a public right of way within a rural parish, and the consent of the parish council shall be required for a declaration that a highway in a rural parish is unnecessary for public use and not repairable at the public expense, and the parish council shall give public notice of a resolution to give any such consent, and the resolution shall not operate—

Footpaths and  
roads.

(a) unless it is confirmed by the parish council at a meeting held not less than two months after the public notice is given; nor

(b) if a parish meeting held before the confirmation resolve that the consent ought not to be given.

(2.) A parish council may, subject to the provisions of this Act with respect to restrictions on expenditure, undertake the repair and maintenance of all or any of the public footpaths within their parish, not being footpaths at the side of a public road, but this power shall not nor shall the exercise thereof relieve any other authority or person from any liability with respect to such repair or maintenance.

**Sect. 14.**—(1.) Where trustees hold any property for the purposes of a public recreation ground or of public meetings, or of allotments, whether under Inclosure Acts or otherwise, for the benefit of the inhabitants of a rural parish,

Public property  
and charities.

<sup>1</sup> See pages 321 to 323.

56 & 57 Vict.  
c. 73, s. 14.

or any of them, or for any public purpose connected with a rural parish, except for an ecclesiastical charity, they may, with the approval of the Charity Commissioners, transfer the property to the parish council of the parish, or to persons appointed by that council, and the parish council, if they accept the transfer, or their appointees, shall hold the property on the trusts and subject to the conditions on which the trustees held the same.

(2.) Where overseers of a rural parish as such are, either alone or jointly with any other persons, trustees of any parochial charity, such number of the councillors of the parish or other persons, not exceeding the number of the overseer trustees, as the council may appoint, shall be trustees in their place, and, when the charity is not an ecclesiastical charity, this enactment shall apply as if the churchwardens as such were specified therein as well as the overseers.

(3.) Where the governing body of a parochial charity other than an ecclesiastical charity does not include any persons elected by the ratepayers or parochial electors or inhabitants of the parish, or appointed by the parish council or parish meeting, the parish council may appoint additional members of that governing body not exceeding the number allowed by the Charity Commissioners in each case: and if the management of any such charity is vested in a sole trustee, the number of trustees may, with the approval of the Charity Commissioners, be increased to three, one of whom may be nominated by such sole trustee and one by the parish council or parish meeting. Nothing in this subsection shall prejudicially affect the power or authority of the Charity Commissioners, under any of the Acts relating to charities, to settle or alter schemes for the better administration of any charity.

(4.) Where the vestry of a rural parish are entitled, under the trusts of a charity other than an ecclesiastical charity, to appoint any trustees or beneficiaries of the charity, the appointment shall be made by the parish council of the parish, or in the case of beneficiaries, by persons appointed by the parish council.

(5.) The draft of every scheme relating to a charity, not being an ecclesiastical charity, which affects a rural parish, shall, on or before the publication of the notice of the proposal to make an order for such scheme in accordance with section six of the Charitable Trusts Act, 1860,<sup>1</sup> be communicated to the council of the parish, and where there is no parish council to the chairman of the parish meeting, and, in the case of a council, the council may, subject to the provisions of this Act with respect to restrictions on expenditure, and to the consent of the parish meeting, either support or oppose the scheme, and shall for that purpose have the same right as any inhabitants of a place directly affected by the scheme.

(6.) The accounts of all parochial charities, not being ecclesiastical charities shall annually be laid before the parish meeting of any parish affected thereby, and the Charitable Trusts Amendment Act, 1855, shall apply with the substitution in section forty-four<sup>2</sup> of the parish meeting for the vestry, and of the chairman of the parish meeting for the churchwardens, and the names of the beneficiaries of dole charities shall be published annually in such form as the parish council, or where there is no parish council the parish meeting, think fit.

(7.) The term of office of a trustee appointed under this section shall be four years, but of the trustees first appointed as aforesaid one half, as nearly as may be, to be determined by lot, shall go out of office at the end of two years from the date of their appointment, but shall be eligible for re-appointment.

(8.) The provisions of this section with respect to the appointment of trustees, except so far as the appointment is transferred from the vestry, shall not apply to any charity until the expiration of forty years from the date of the foundation thereof, or, in the case of a charity founded before the passing of this Act by a donor or by several donors any one of whom is living at the passing of this Act, until the expiration of forty years from the passing of this Act, unless with the consent of the surviving donor or donors.

(9.) Whilst a person is trustee of a parochial charity he shall not, nor shall his wife or any of his children, receive any benefit from the charity.

23 & 24 Vict.  
c. 136.

18 & 19 Vict.  
c. 124.

## References.

<sup>1</sup> *This section provides that*—"No order establishing a scheme for the administration of any charity shall be made by the said Board [of Charity Commissioners] before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto or suggestions thereon may be made or transmitted to the board; and the said board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry, or otherwise, think expedient."

<sup>2</sup> *The following is the section referred to* :—"Section Sixty-one of 'The Charitable Trusts Act, 1853,' except so much thereof as enacts that the trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity, shall be repealed as to all accounts which such trustees or administrators shall not have been bound to render before the passing of this Act; and the trustees or administrators of every charity shall, on or before the Twenty-fifth day of March, One thousand eight hundred and fifty-six, prepare and make out and transmit to the Board [of Charity Commissioners] an account of the endowments then belonging to the charity, showing in the case of realty not in hand the manner in which the same is let or occupied, and in the case of personalty the existing investment or employment thereof, and in what names such investments are made; and such trustees or administrators shall also on or before the Twenty-fifth day of March next, after the acquisition of any endowment not included in the foregoing account prepare and make out, in like manner, and transmit to the Board, a similar account of such last-mentioned endowment, and in case of any alienation, or charge or transfer of any real or personal estate of the charity, shall on or before the Twenty-fifth day of March then next following transmit to the Board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the Twenty-fifth day of March in every year, or such other day as may be fixed for that purpose by the Board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto; that is to say,—

- (1) An account of the gross income arising from the endowment, or which ought to have arisen therefrom, during the year ending on the Thirty-first day of December then last, or on such other day as may have been appointed for this purpose by the Board;
- (2) An account of all balances in hand at the commencement of the year, and of all monies received during the same year, on account of the charity;
- (3) An account for the same period of all payments;
- (4) An account of all monies owing to or from the charity, so far as conveniently may be;

"which accounts shall be certified under the hand of one or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the commissioners at their office in London, and in the case of parochial charities shall deliver another copy thereof to the churchwarden or churchwardens of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general meeting of the vestry of such parishes, and insert a copy thereof in the minutes of the vestry book; and every such copy shall be open to the inspection of all persons at all reasonable hours, subject to such regulations as to the said Board may seem fit; and any person may require a copy of every such account or of any part thereof, on paying therefor after the rate of Twopenny for every seventy-two words or figures."

## References.

23 & 24 Vict.  
c. 136, s. 6.

18 & 19 Vict.  
c. 124, s. 41.

56 & 57 Vict.  
c. 73, s. 15.

Delegated  
powers of parish  
councils.

**Sect. 15.** A rural district council may delegate to a parish council any power which may be delegated to a parochial committee under the Public Health Acts, and thereupon those Acts shall apply as if the parish council were a parochial committee, and where such district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons shall, where there is a parish council, be or be selected from the members of the parish council.

Complaint by  
parish council  
of default of  
district council.

**Sect. 16.**—(1.) Where a parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts which it is their duty to enforce, and have failed so to do, or that they have failed to maintain and repair any highway in a good and substantial manner, the parish council may complain to the county council, and the county council, if satisfied after due inquiry that the district council have so failed as respects the subject matter of the complaint, may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council, and they shall be transferred accordingly.

38 & 39 Vict.  
c. 55.

(2.) Upon any complaint under this section the county council may, instead of resolving that the duties and powers of the rural district council be transferred to them, make such an order as is mentioned in section two hundred and ninety-nine of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment sections two hundred and ninety-nine to three hundred and two of the Public Health Act, 1875<sup>1</sup>, shall apply with the substitution of the county council for the Local Government Board.

(3.) Where a rural district council have determined to adopt plans for the sewerage or water supply of any contributory place within the district, they shall give notice thereof to the parish council of any parish for which the works are to be provided before any contract is entered into by them for the execution of the works.

Parish officers  
and parish  
documents.

**Sect. 17.**—(1.) A parish council may appoint one of their number to act as clerk of the council without remuneration.

(2.) If no member of the parish council is appointed so to act, and there is an assistant overseer, he, or such one of the assistant overseers, if more than one, as may be appointed by the council, shall be the clerk of the parish council, and the performance of his duties as such shall be taken into account in determining his salary.

(3.) If there is no assistant overseer, the parish council may appoint a collector of poor rates, or some other fit person, to be their clerk, with such remuneration as they may think fit.

(4.) A parish council shall not appoint to the office of vestry clerk.

(5.) When a parish council act as a parochial committee by delegation from the district council they shall have the services of the clerk of the district council, unless the district council otherwise direct.

(6.) The parish council may appoint one of their own number or some other person to act as treasurer without remuneration, and the treasurer shall give such security as may be required by regulations of the county council.

(7.) All documents required by statute or by standing orders of Parliament to be deposited with the parish clerk of a rural parish shall, after the election of a parish council, be deposited with the clerk, or, if there is none, with the chairman, of the parish council, and the enactments with respect to the inspection of, and taking copies of, and extracts from, any such documents shall apply as if the clerk, or chairman, as the case may be, were mentioned therein.

<sup>1</sup> See pages 325 and 327.

(8.) The custody of the registers of baptisms, marriages, and burials, and of all other books and documents containing entries wholly or partly relating to the affairs of the Church or to ecclesiastical charities, except documents directed by law to be kept with the public books, writings, and papers of the parish, shall remain as provided by the existing law unaffected by this Act. All other public books, writings, and papers of the parish, and all documents directed by law to be kept therewith, shall either remain in their existing custody, or be deposited in such custody as the parish council may direct. The incumbent and churchwardens on the one part, and the parish council on the other, shall have reasonable access to all such books, documents, writings, and papers, as are referred to in this subsection, and any difference as to custody or access shall be determined by the county council.

56 & 57 Vict.  
c. 73, s. 17.

(9.) Every county council shall from time to time inquire into the manner in which the public books, writings, papers, and documents under the control of the parish council or parish meeting are kept with a view to the proper preservation thereof, and shall make such orders as they think necessary for such preservation, and those orders shall be complied with by the parish council or parish meeting.

**Sect. 18.**—(1.) A county council may, on application by the parish council, or not less than one tenth of the parochial electors of a parish, and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, order that the parish be divided for the purpose of electing parish councillors into wards, to be called parish wards, with such boundaries and such number of councillors for each ward as may be provided by the order.

Parish wards.

(2.) In the division of a parish into wards regard shall be had to the population according to the last published census for the time being, and to the evidence of any considerable change of population since that census, and to area, and to the distribution and pursuits of the population, and to all the circumstances of the case.

(3.) Any such order may be revoked or varied by the county council on application by either the council or not less than one tenth of the parochial electors of the parish, but while in force shall have effect as if enacted by this Act.

(4.) In a parish divided into parish wards there shall be a separate election of parish councillors for each ward.

**Sect. 19.** In a rural parish not having a separate parish council, the following provisions shall, as from the appointed day, but subject to the provisions made by a grouping order, if the parish is grouped with some other parish or parishes have effect:—

Provisions as to  
small parishes.

- (1.) At the annual assembly the parish meeting shall choose a chairman for the the year ;
- (2.) The parish meeting shall assemble not less than twice in each year ;
- (3.) The parish meeting may appoint a committee of their own number for any purposes which, in the opinion of the parish meeting, would be better regulated and managed by means of such a committee, and all the acts of the committee shall be submitted to the parish meeting for their approval ;
- (4.) All powers, duties, and liabilities of the vestry shall, except so far as they relate to the affairs of the church or to ecclesiastical charities, or are transferred by this Act to any other authority, be transferred to the parish meeting ;
- (5.) The power and the duty of appointing the overseers, and of notifying the appointment, and the power of appointing and revoking the appointment of an assistant overseer, shall be transferred to and vest in the parish meeting, and the power given by this Act to a parish council of appointing trustees of a charity in the place of overseers or churchwardens, shall vest in the parish meeting ;

56 & 57 Vict.  
c. 73, s. 19.

- (6.) The chairman of the parish meeting and the overseers of the parish shall be a body corporate by the name of the chairman and overseers of the parish, and shall have perpetual succession, and may hold land for the purposes of the parish without licence in mortmain; but shall in all respects act in manner directed by the parish meeting, and any act of such body corporate shall be executed under the hands, or if an instrument under seal is required under the hands and seals, of the said chairman and overseers;
- (7.) The legal interest in all property which under this Act would, if there were a parish council, be vested on the appointed day in the parish council shall vest in the said body corporate of the chairman and overseers of the parish, subject to all trusts and liabilities affecting the same, and all persons concerned shall make or concur in making such transfers (if any) as are requisite to give effect to this enactment;
- (8.) The provisions of this Act with respect to the stopping or diversion of a public right of way, or the declaring of a highway to be unnecessary and not repairable at the public expense, and with respect to a complaint to a county council of a default by a district council, shall apply, with the substitution of the parish meeting for the parish council;
- (9.) A rate levied for defraying the expenses of the parish meeting (when added to expenses under any of the adoptive Acts) shall not exceed sixpence in the pound in any local financial year;
- (10.) On the application of the parish meeting the county council may confer on that meeting any of the powers conferred on a parish council by this Act;
- (11.) Any act of the parish meeting may be signified by an instrument executed at the meeting under the hands, or, if an instrument under seal is required under the hands and seals, of the chairman presiding at the meeting and two other parochial electors present at the meeting.

## PART II.

### GUARDIANS AND DISTRICT COUNCILS.

**Sect. 20.** As from the appointed day the following provisions shall apply to boards of guardians :—

- (1.) There shall be no ex-officio or nominated guardians;
- (2.) A person shall not be qualified to be elected or to be a guardian for a poor law union unless he is a parochial elector of some parish within the union, or has during the whole of the twelve months preceding the election resided in the union, or in the case of a guardian for a parish wholly or partly situate within the area of a borough, whether a county borough or not, is qualified to be elected a councillor for that borough, and no person shall be disqualified by sex or marriage for being elected or being a guardian. So much of any enactment, whether in a public general or local and personal Act, as relates to the qualification of a guardian shall be repealed;
- (3.) The parochial electors of a parish shall be the electors of the guardians for the parish, and, if the parish is divided into wards for the election of guardians, the electors of the guardians for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward;
- (4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected;
- (5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board:

Election and  
qualification  
of guardians.



(6.) The term of office of a guardian shall be three years, and one third, as nearly as may be, of every board of guardians shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected guardians. Provided as follows :

56 & 57 Vict.  
C. 73, s. 20.

(a.) Where the county council on the application of the board of guardians of any union in their county consider that it would be expedient to provide for the simultaneous retirement of the whole of the board of guardians for the union, they may direct that the members of the board of guardians for that union shall retire together on the fifteenth day of April in every third year, and such order shall have full effect, and where a union is in more than one county, an order may be made by a joint committee of the councils of those counties ;

(b.) Where at the passing of this Act the whole of the guardians of any union, in pursuance of an order of the Local Government Board, retire together at the end of every third year, they shall continue so to retire, unless the county council, or a joint committee of the county councils, on the application of the board of guardians or of any district council of a district wholly or partially within the union, otherwise direct :

(7.) A board of guardians may elect a chairman or vice-chairman, or both, and not more than two other persons, from outside their own body, but from persons qualified to be guardians of the union, and any person so elected shall be an additional guardian and member of the board. Provided that on the first election, if a sufficient number of persons who have been ex officio or nominated guardians of the union, and have actually served as such, are willing to serve, the additional members shall be elected from among those persons.

**Sect. 21.**—As from the appointed day,—

(1.) Urban sanitary authorities shall be called urban district councils, and their districts shall be called urban districts ; but nothing in this section shall alter the style or title of the corporation or council of a borough :

Names of  
county districts  
and district  
councils.

(2.) For every rural sanitary district there shall be a rural district council whose district shall be called a rural district :

(3.) In this and every other Act of Parliament, unless the context otherwise requires, the expression “ district council ” shall include the council of every urban district, whether a borough or not, and of every rural district, and the expression “ county district ” shall include every urban and rural district whether a borough or not.

**Sect. 22.** The chairman of a district council unless a woman or personally disqualified by any Act shall be by virtue of his office justice of the peace for the county in which the district is situate, but before acting as such justice he shall, if he has not already done so, take the oaths required by law to be taken by a justice of the peace other than the oath respecting the qualification by estate.

Chairman of  
council to be  
justice.

**Sect. 23.** As from the appointed day, where an urban district is not a borough—

(1.) There shall be no ex-officio or nominated members of the urban sanitary authority :

(2.) A person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. So much of any enactment whether in a public general or local and personal Act as relates to the qualification of a member of an urban sanitary authority shall be repealed :

Constitution of  
district councils  
in urban districts  
not being  
boroughs

56 & 57 Vict.  
c. 73, s. 23.

- (3.) The parochial electors of the parishes in the district shall be the electors of the councillors of the district, and, if the district is divided into wards, the electors of the councillors for each ward shall be such of the parochial electors as are registered in respect of qualifications within the ward :
- (4.) Each elector may give one vote and no more for each of any number of persons not exceeding the number to be elected :
- (5.) The election shall, subject to the provisions of this Act, be conducted according to rules framed under this Act by the Local Government Board :
- (6.) The term of office of a councillor shall be three years, and one-third, as nearly as may be, of the council, and if the district is divided into wards one-third, as nearly as may be, of the councillors for each ward, shall go out of office on the fifteenth day of April in each year, and their places shall be filled by the newly elected councillors. Provided that a county council may on request made by a resolution of an urban district council, passed by two-thirds of the members voting on the resolution, direct that the members of such council shall retire together on the fifteenth day of April in every third year, and such order shall have full effect.

Rural district  
councils.

**Sect. 24.**—(1.) The district council of every rural district shall consist of a chairman and councillors, and the councillors shall be elected by the parishes or other areas for the election of guardians in the district.

(2.) The number of councillors for each parish or other area in a rural district shall be the same as the number of guardians for that parish or area.

(3.) The district councillors for any parish or other area in a rural district shall be the representatives of that parish or area on the board of guardians, and when acting in that capacity shall be deemed to be guardians of the poor, and guardians as such shall not be elected for that parish or area.

(4.) The provisions of this Act with respect to the qualification, election, and term of office and retirement of guardians, and to the qualification of the chairman of the board of guardians, shall apply to district councillors and to the chairman of the district council of a rural district, and any person qualified to be a guardian for a union comprising the district shall be qualified to be a district councillor for the district.

(5.) Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall, save as otherwise provided by or in pursuance of this or any other Act, be as from the appointed day a rural district :

Provided that where the number of councillors of any such district will be less than five, the provisions, so far as unrepealed, of section nine of the Public Health Act, 1875,<sup>1</sup> with respect to the nomination of persons to make up the members of a rural authority to five, shall apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day, and, if they so direct, the councillors of the district shall be entitled, so far as regards those affairs, to sit and act as members of that district council, but a separate account shall be kept of receipts and expenses in respect of the district, and the same shall be credited or charged separately to the district.

(6.) The said provisions of section nine of the Public Health Act, 1875,<sup>1</sup> shall apply to the district council of a rural district to which they apply at the passing of this Act.

(7.) Every district council for a rural district shall be a body corporate by the name of the district council, with the addition of the name of the district, or if there is any doubt as to the latter name, of such name as the county council direct, and shall have perpetual succession and a common seal, and may hold land for the purposes of their powers and duties without licence in mortmain.

<sup>1</sup> See page 311.

38 & 39 Vict.  
c. 55.

**Sect. 25.**—(1.) As from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of the rural sanitary authority in the district, and of any highway authority in the district, and highway boards shall cease to exist, and rural district councils shall be the successors of the rural sanitary authority and highway authority, and shall also have as respects highways all the powers, duties, and liabilities of an urban sanitary authority under sections one hundred and forty-four to one hundred and forty-eight of the Public Health Act, 1875,<sup>1</sup> and those sections shall apply in the case of a rural district and of the council thereof in like manner as in the case of an urban district and an urban authority. Provided that the council of any county may by order postpone within their county or any part thereof the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such further period as the Local Government Board may on the application of such council allow.

(2.) Where a highway repairable *ratione tenuræ* appears on the report of a competent surveyor not to be in proper repair, and the person liable to repair the same fails when requested so to do by the district council to place it in proper repair, the district council may place the highway in proper repair, and recover from the person liable to repair the highway the necessary expenses of so doing.

(3.) Where a highway authority receives any contribution from the county council towards the cost of any highway under section eleven, subsection (10), of the Local Government Act, 1888,<sup>2</sup> such contribution may be made, subject to any such conditions for the proper maintenance and repair of such highways, as may be agreed on between the county council and the highway authority.

(4.) Where the council of a rural district become the highway authority for that district, any excluded part of a parish under section two hundred and sixteen of the Public Health Act, 1875,<sup>3</sup> which is situate in that district, shall cease to be part of any urban district for the purpose of highways, but until the council become the highway authority such excluded part of a parish shall continue subject to the said section.

(5.) Rural district councils shall also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Local Government Board by general order direct.

(6.) The power to make such general orders shall be in addition to and not in substitution for the powers conferred on the Board by section two hundred and seventy-six of the Public Health Act, 1875,<sup>4</sup> or by any enactment applying that section; and every order made by the Local Government Board under this section shall be forthwith laid before Parliament.

(7.) The powers conferred on the Local Government Board by the said section two hundred and seventy-six, or by any enactment applying that section, may be exercised on the application of a county council, or with respect to any parish or part of a parish on the application of the parish council of that parish.

**Sect. 26.**—(1.) It shall be the duty of every district council to protect all public rights of way, and to prevent as far as possible the stopping or obstruction of any such right of way, whether within their district or in an adjoining district in the county or counties in which the district is situate, where the stoppage or obstruction thereof would in their opinion be prejudicial to the interests of their district, and to prevent any unlawful encroachment on any roadside waste within their district.

(2.) A district council may with the consent of the county council for the county within which any common land is situate aid persons in maintaining rights of common where, in the opinion of the council, the extinction of such rights would be prejudicial to the inhabitants of the district; and may with the like consent exercise in relation to any common within their district all such powers as may,

56 & 57 Vict.  
c. 73, s. 25.

Powers of district council with respect to sanitary and highway matters.

38 & 39 Vict.  
c. 55.

51 & 52 Vict.  
c. 41.

Duties and powers of district council as to rights of way, rights of common, and roadside wastes

<sup>1</sup> See pages 311 and 312.

<sup>2</sup> See page 317.

<sup>3</sup> See page 302.

<sup>4</sup> See page 325.

under section eight of the Commons Act, 1876,<sup>1</sup> be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Board of Agriculture in relation to any common within their district shall be served upon the district council.

(3.) A district council may, for the purpose of carrying into effect this section, institute or defend any legal proceedings, and generally take such steps as they deem expedient.

(4.) Where a parish council have represented to the district council that any public right of way within the district or an adjoining district in the county or counties in which the district is situate has been unlawfully stopped or obstructed, or that an unlawful encroachment has taken place on any roadside waste within the district, it shall be the duty of the district council, unless satisfied that the allegations of such representation are incorrect, to take proper proceedings accordingly; and if the district council refuse or fail to take any proceedings in consequence of such representation, the parish council may petition the county council for the county within which the way or waste is situate, and if that council so resolve the powers and duties of the district council under this section shall be transferred to the county council.

(5.) Any proceedings or steps taken by a district council or county council in relation to any alleged right of way shall not be deemed to be unauthorised by reason only of such right of way not being found to exist.

(6.) Nothing in this section shall affect the powers of the county council in relation to roadside wastes.

(7.) Nothing in this section shall prejudice any powers exercisable by an urban sanitary authority at the passing of this Act, and the council of every county borough shall have the additional powers conferred on a district council by this section.

**Sect. 27.**—(1.) As from the appointed day the powers, duties, and liabilities of justices out of session in relation to any of the matters following, that is to say,—

- (a) the licensing of gang masters;
- (b) the grant of pawnbrokers' certificates;
- (c) the licensing of dealers in game;
- (d) the grant of licences for passage brokers and emigrant runners;
- (e) the abolition of fairs and alteration of days for holding fairs;
- (f) the execution as the local authority of the Acts relating to petroleum and infant life protection;

when arising within a county district, shall be transferred to the district council of the district.

(2.) As from the appointed day, the powers, duties, and liabilities of quarter sessions in relation to the licensing of knackers' yards within a county district shall be transferred to the district council of the district.

(3.) All fees payable in respect of the powers, duties, and liabilities transferred by this section shall be payable to the district council.

**Sect. 28.** The expenses incurred by the council of an urban district in the execution of the additional powers conferred on the council by this Act shall, subject to the provisions of this Act, be defrayed in a borough out of the borough fund or rate, and in any other case out of the district fund and general district rate or other fund applicable towards defraying the expenses of the execution of the Public Health Act, 1875.

Transfer of  
certain powers  
of justices to  
district councils.

Expenses of  
urban district  
council.

38 & 39 Vict.  
c. 55.

## References.

39 & 40 Vict. c. 56  
s. 8.

## References.

<sup>1</sup> *The Board of Agriculture now administer the Act. The section referred to is as follows*:—"S. Notice of any application under this Act in relation to a common "which is situate either wholly or partly in any town or towns, or within six "miles of any town or towns (which common so situate is in this Act referred to "as a suburban common) shall be served as soon as may be on the urban sanitary "authority or authorities having jurisdiction over such town or towns, and it

References.—*contd.*

“shall be lawful for the urban sanitary authority of any such town to appear before the assistant commissioner on the occasion of his holding a local inquiry as in this Act mentioned, and also to appear before the inclosure commissioners, and to make to him or them, at any time during the proceedings in relation to obtaining a provisional order under this Act, such representations as they may think fit with respect to the expediency or in expediency of such application, regard being had to the health, comfort, and convenience of the inhabitants of the town over which such authority has jurisdiction, and to propose to him or them such provisions as may appear to such urban sanitary authority to be proper, regard being had as aforesaid.

“Any urban sanitary authority entitled to receive notice of an application in relation to a suburban common may, with the sanction of the inclosure commissioners, enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths or roads, or the doing any other matter or thing for the benefit of their town in relation to the common to which such application relates.

“They may also, in relation to any such common, and with such sanction as aforesaid, enter into an undertaking to pay compensation in respect to the rights of commoners, for the purpose of securing greater privileges for the benefit of their town.

“An urban sanitary authority may acquire by gift and hold without licence in mortmain on trust for the benefit of their town any suburban common in respect of which they would be entitled to receive notice of any application made to the inclosure commissioners in pursuance of this Act, and any rights in such a common.

“They may also in the case of any such suburban common purchase and hold as aforesaid, with a view to prevent the extinction of the rights of common, any saleable rights in common or any tenement of a commoner having annexed thereto rights of common.

“They may also, with the consent of persons representing at least one-third in value of such interests in a suburban common as aforesaid as are proposed to be affected by the provisional order, make an application to the inclosure commissioners for the regulation of such common with a view to the benefit of their town and the improvement of such common.

“Where an urban sanitary authority makes an application under this Act with such consent as aforesaid in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or make any other payment out of its funds in respect of a common, such urban sanitary authority may, if the inclosure commissioners deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

“The expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

“A town for the purposes of this section means any municipal borough, or Improvement Act district, or Local Government district, having a population of not less than five thousand inhabitants.

“The population of any town for the purposes of this Act shall be reckoned according to the last published census for the time being, and distances shall be measured in a direct line from the town hall, or if there shall be no town hall, then from the cathedral or church, if there shall be only one church, or if there be more churches than one, then from the principal market place of such town to the nearest point of the suburban common. When part only of a common is situate within the aforesaid distance from a town, such part shall be deemed for the purposes of this section to be a common separate and distinct from the part situated without and beyond such distance.”

## References.

39 & 40 Vict.  
c. 56, s. 8.

56 & 57 Vict.  
c. 73, s. 29.

Expenses of rural  
district council.

**Sect. 29.** The expenses incurred by the council of a rural district shall, subject to the provisions of this Act, be defrayed in manner directed by the Public Health Act, 1875, with respect to expenses incurred in the execution of that Act by a rural sanitary authority, and the provisions of the Public Health Acts with respect to those expenses shall apply accordingly.

Provided as follows:—

(a.) Any highway expenses shall be defrayed as general expenses :

(b.) When the Local Government Board determine any expenses under this Act to be special expenses and a separate charge on any contributory place, and such expenses would if not separately chargeable on a contributory place be raised as general expenses, they may further direct that such special expenses shall be raised in like manner as general expenses, and not by such separate rate for special expenses as is mentioned in section two hundred and thirty of the Public Health Act, 1875 :<sup>1</sup>

(c.) A district council shall have the same power of charging highway expenses under exceptional circumstances on a contributory place as a highway board has in respect of any area under section seven of the Highways and Locomotives (Amendment) Act, 1878 :<sup>2</sup>

(d.) Where highway expenses would, if this Act had not passed, have been in whole or in part defrayed in any parish or other area out of any property or funds other than rates, the district council shall make such provision as will give to that parish or area the benefit of such property or funds by way of reduction of the rates on the parish or area.

38 & 39 Vict.  
c. 55.

41 & 42 Vict.  
c. 77.

Guardians in  
London and  
county boroughs

Provisions as to  
London vestries  
and district  
boards.

43 Vict. c. 10.

18 & 19 Vict.  
c. 120.

Application to  
county boroughs  
of provisions as  
to transfer of  
justices' powers

Power to apply  
certain provisions  
of Act to urban  
districts and  
London.

**Sect. 30.** The provisions of this Part of this Act respecting guardians shall apply to the administrative county of London and to every county borough.

**Sect. 31.**—(1.) The provisions of this Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if the members of the local board of Woolwich and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts, and so far as respects the qualification of persons to be elected as if members of the district boards under the said Acts were urban district councillors, and no person shall, ex-officio, be chairman of any of the said vestries. Provided that the Elections (Hours of Poll) Act, 1885,<sup>3</sup> shall apply to elections to the said vestries.

(2.) Each of the said vestries, except those electing district boards, and each of the said district boards and the local board of Woolwich, shall at their first meeting after the annual election of members elect a chairman for the year, and section forty-one of the Metropolis Management Act, 1855,<sup>4</sup> shall apply only in case of the absence of such chairman, and the provisions of this Act with respect to chairmen of urban district councils being justices shall apply as if the said vestries and boards were urban district councils.

(3.) Nothing in any local and personal Act shall prevent any vestry in the county of London from holding their meeting at such time as may be directed by the vestry.

**Sect. 32.** The provisions of this Part of this Act respecting the powers, duties, and liabilities of justices out of session, or of quarter sessions, which are transferred to a district council, shall apply to a county borough as if it were an urban district, and the county borough council were a district council.

**Sect. 33.**—(1.) The Local Government Board may, on the application of the council of any municipal borough, including a county borough, or of any other urban district, make an order conferring on that council or some other representative body within the borough or district all or any of the following matters, namely, the appointment of overseers and assistant overseers, the revocation of appointment of assistant overseers, any powers, duties, or liabilities

of overseers, and any powers, duties, or liabilities of a parish council, and applying with the necessary modifications the provisions of this Act with reference thereto.

56 & 57 Vict.  
c. 73, s. 33.

(2.) Where it appears to the Local Government Board that, by reason of the circumstances connected with any parish in a municipal borough (including a county borough) or other urban district divided into wards, or with the parochial charities of that parish, the parish will not, if the majority of the body of trustees administering the charity are appointed by the council of the borough or district, be properly represented on that body, they may, by their order, provide that such of those trustees as are appointed by the council, or some of them, shall be appointed on the nomination of the councillors elected for the ward or wards comprising such parish or any part of the parish.

(3.) Any order under this section may provide for its operation extending either to the whole or to specified parts of the area of the borough or urban district, and may make such provisions as seem necessary for carrying the order into effect.

(4.) The order shall not alter the incidence of any rate, and shall make such provisions as may seem necessary and just for the preservation of the existing interests of paid officers.

(5.) An order under this section may also be made on the application of any representative body within a borough or district.

(6.) The provisions of this section respecting councils of urban districts shall apply to the administrative county of London in like manner as if the district of each sanitary authority in that county were an urban district, and the sanitary authority were the council of that district.

(7.) The Local Government Board shall consult the Charity Commissioners before making any order under this section with respect to any charity.

**Sect. 34.** Where an order of the Local Government Board under this Act confers on the council of an urban district, or some other representative body within the district, either the appointment of overseers and assistant overseers or the powers, duties, and liabilities of overseers, that order or any subsequent order of the Board may confer on such council or body the powers of the vestry under the third and fourth sections of the Poor Rate Assessment and Collection Act, 1869.<sup>5</sup>

Supplemental provisions as to control of overseers in urban districts.

32 & 33 Vict.  
c. 41.

**Sect. 35.** Save as specially provided by this Act, this Part of this Act shall not apply to the administrative county of London or to a county borough.

Restrictions on application of Act to London, &c.

#### References.

<sup>1</sup> See page 320.

<sup>2</sup> The enactment referred to is as follows:—"Provided, that if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expenses of maintaining its or their own highways, they may (with the approval of the county authority or authorities of the county or counties within which their district, or any part thereof, is situate) divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highway situate in each such part; so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes."

<sup>3</sup> This Act provides that "The poll (if any) shall commence at eight o'clock in the forenoon, and be kept open till eight o'clock in the afternoon of the same day and no longer (s. 1)."

<sup>4</sup> The section provides that "Every [district] board shall at every meeting of such board, before proceeding to business, elect a chairman of such meeting, and such chairman, in case of an equality of votes on any question, shall have a second or casting vote."

See page 296.

#### References.

41 & 42 Vict.  
c. 77, s. 7.

4<sup>th</sup> Vict. c. 10,  
s. 1.

18 & 19 Vict.  
c. 120, s. 41.

56 & 57 Vict.  
c. 73, s. 36.

## PART III.

## AREAS AND BOUNDARIES.

Duties and  
powers of  
county council  
with respect to  
areas and  
boundaries.

**Sect. 36.**—(1.) For the purpose of carrying this Act into effect in the case of—

- (a.) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and
- (b.) every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and
- (c.) every rural parish which has a population of less than two hundred; and
- (d.) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and
- (e.) every rural parish which is co-extensive with a rural sanitary district;

every county council shall forthwith take into consideration every such case within their county, and whether any proposal has or has not been made as mentioned in section fifty-seven of the Local Government Act, 1888,<sup>1</sup> shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect this Act in accordance with the following provisions, namely:—

- (i.) the whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii.) the whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and
- (iii.) every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

(2.) Where a parish is at the passing of this Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes, in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.<sup>2</sup>

(3.) Where a parish is divided by this Act, the county council may by order provide for the application to different parts of that parish of the provisions of this Act with respect to the appointment of trustees or beneficiaries of a charity and for the custody of parish documents, but the order so far as regards the charity, shall not have any effect until it has received the approval of the Charity Commissioners.

(4.) Where a rural parish is co-extensive with a rural sanitary district, then, until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall, in addition to their own powers, have the powers of, and be deemed to be, the parish council.

(5.) Where an alteration of the boundary of any county or borough seems expedient for any of the purposes mentioned in this section, application shall be made to the Local Government Board for an order under section fifty-four of the Local Government Act, 1888.<sup>3</sup>

(6.) Where the alteration of a poor law union seems expedient by reason of any of the provisions of this Act, the county council may, by their order, provide for such alteration in accordance with section fifty-eight of the Local Government Act, 1888,<sup>4</sup> or otherwise, but this provision shall not affect the powers of the Local Government Board with respect to the alteration of unions.

<sup>1</sup> See page 363.

<sup>3</sup> See page 362.

<sup>2</sup> The effect of these Acts is set out at page 11.

<sup>4</sup> See page 364.

51 & 52 Vict.  
c. 41

39 & 40 Vict.  
c. 61



(7.) Where an order for the alteration of the boundary of any parish or the division thereof, or the union thereof or of any part thereof, with another parish is proposed to be made after the appointed day, notice thereof shall, a reasonable time before it is made, be given to the parish council of that parish, or if there is no parish council, to the parish meeting, and that parish council or parish meeting, as the case may be, shall have the right to appear at any inquiry held by the county council with reference to the order, and shall be at liberty to petition the Local Government Board against the confirmation of the order.

56 & 57 Vict.  
c. 73, s. 36.

(8.) Where the alteration of the boundary of any parish, or the division thereof or the union thereof or of part thereof with another parish, seems expedient for any of the purposes of this Act, provision for such alteration, division or union may be made by an order of the county council confirmed by the Local Government Board under section fifty-seven of the Local Government Act, 1888.<sup>1</sup>

(9.) Where a parish is by this Act divided into two or more parishes, those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included.

51 & 52 Vict.  
c. 41.

(10.) Subject to the provisions of this Act, any order made by a county council in pursuance of this part of this Act shall be deemed to be an order under section fifty-seven of the Local Government Act, 1888,<sup>1</sup> and any board of guardians affected by an order shall have the same right of petitioning against that order as is given by that section to any other authority.

(11.) Where any of the areas referred to in section fifty-seven of the Local Government Act, 1888,<sup>1</sup> is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties shall, subject to the terms of delegation, be deemed to have and to have always had power to make orders under that section with respect to that area; and where at the passing of this Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of those counties shall act under this section, and if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee. Provided that any question arising as to the constitution or procedure of any such joint committee shall, if the county councils concerned fail to agree, be determined by the Local Government Board.

(12.) Every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887,<sup>2</sup> shall be laid before the council of any administrative county or borough affected by that report, and before any joint committee of county councils, and it shall be the duty of such councils and joint committees to take such reports into consideration before framing any order under the powers conferred on them under this Act.

50 & 51 Vict.  
c. 61.

(13.) Every county council shall, within two years after the passing of this Act, or within such further period as the Local Government Board may allow either generally or with reference to any particular matter, make such orders under this section as they deem necessary for the purpose of bringing this Act into operation, and after the expiration of the said two years or further period the powers of the county council for that purpose shall be transferred to the Local Government Board, who may exercise those powers.

**Sect. 37.** Where it is proved to the satisfaction of the county council that any part of a parish has a defined boundary, and has any property or rights distinct from the rest of the parish, the county council may order that the consent of a parish meeting held for that part of the parish shall be required for any such act or class of Acts of the parish council affecting the said property or rights as is specified in the order.

Provision as to  
parishes having  
parts with  
defined  
boundaries.

<sup>1</sup> See page 363.

<sup>2</sup> See page 186.

56 & 57 Vict.  
c. 73, s. 38.

Orders for  
grouping  
parishes and  
dissolving  
groups.

**Sect. 38.**—(1.) Where parishes are grouped, the grouping order shall make the necessary provisions for the name of the group, for the parish meetings in each of the grouped parishes, and for the election in manner provided by this Act of separate representatives of each parish on the parish council, and may provide for the consent of the parish meeting of a parish to any particular act of the parish council, and for any other adaptations of this Act to the group of parishes, or to the parish meetings in the group.

(2.) Where parishes are grouped the whole area under each parish council shall unless the county council for special reasons otherwise direct, be within the same administrative county and county district.

(3.) Where parishes are grouped, the grouping order shall provide for the application of the provisions of this Act with respect to the appointment of trustees and beneficiaries of a charity, and the custody of documents, so as to preserve the separate rights of each parish.

(4.) The parish meeting of any parish may apply to the county council for a grouping order respecting that parish, and, if the parish has a less population than two hundred, for a parish council, and any such application shall be forthwith taken into consideration by the county council.

(5.) The county council may, on the application of the council for any group of parishes or of the parish meeting for any parish included in a group of parishes, make an order dissolving the group, and shall by the order make such provision as appears necessary for the election of parish councils of the parishes in the group and for the adjustment of property, rights, and liabilities as between separate parishes and the group.

Provisions for  
increase and  
decrease of  
population.

**Sect. 39.**—(1.) Where the population of a parish not having a separate parish council increases so as to justify the election of such council, the parish meeting may petition the county council, and the county council, if they think proper, may order the election of a parish council in that parish, and shall by the order make such provision as appears necessary for separating the parish from any group of parishes in which it is included, and for the alteration of the parish council of the group, and for the adjustment of property, rights, and liabilities as between the group and the parish with a separate parish council.

(2.) Where the population of a parish, according to the last published census for the time being is less than two hundred, the parish meeting may petition the county council, and the county council, if they think proper, may order the dissolution of the parish council, and from and after the date of the order this Act shall apply to that parish as to a parish not having a parish council. The order shall make such provision as appears necessary for carrying it into effect, and for the disposal and adjustment of the property, rights, and liabilities of the parish council. Where a petition for such an order is rejected, another petition for the same purpose may not be presented within two years from the presentation of the previous petition.

Certain orders of  
county council  
not to require  
confirmation.

**Sect. 40.** A grouping order, and an order establishing or dissolving a parish council, or dissolving a group of parishes, and an order relating to the custody of parish documents or requiring the approval of the Charity Commissioners, and an order requiring the consent of the parish meeting for any part of the parish to any act or class of acts of the parish council, shall not require submission to or confirmation by the Local Government Board.

Reduction of  
time for appeal-  
ing against  
county council  
orders.

**Sect. 41.**—The time for petitioning against an order under section fifty-seven of the Local Government Act, 1888,<sup>1</sup> shall be six weeks instead of three months after the notice referred to in subsection three of that section.

<sup>1</sup> See page 363.

**Sect. 42.** When an order under section fifty-seven of the Local Government Act, 1888,<sup>1</sup> has been confirmed by the Local Government Board, such order shall at the expiration of six months from that confirmation be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

56 & 57 Vict.  
c. 73, s. 42.

Validity of  
county council  
orders.

## PART IV.

### SUPPLEMENTAL.

#### *Parish Meetings and Elections.*

**Sect. 43.** For the purposes of this Act a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Removal of  
disqualification  
of married  
women.

**Sect. 44.**—(1.) The local government register of electors and the parliamentary register of electors, so far as they relate to a parish shall, together, form the register of the parochial electors of the parish; and any person whose name is not in that register shall not be entitled to attend a meeting or vote as a parochial elector, and any person whose name is in that register shall be entitled to attend a meeting and vote as a parochial elector unless prohibited from voting by this or any other Act of Parliament.

Register of  
parochial  
electors.

(2.) Where the parish is in a parliamentary borough, such portion of the parliamentary register of electors for the county as contains the names of persons registered in respect of the ownership of any property in the parish shall be deemed to form part of the parliamentary register of electors for the parish within the meaning of this section.

(3.) The lists and register of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards.

(4.) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one register of parochial electors.

(5.) Where in that portion of the parliamentary register of electors which relates to a parish a person is entered to vote in a polling district other than the district comprising the parish, such person shall be entitled to vote as a parochial elector for that parish, and in addition to an asterisk there shall be placed against his name a number consecutive with the other numbers in the list.

(6.) Where the revising barrister in any list of voters for a parish would—

(a.) In pursuance of section seven of the County Electors Act, 1888,<sup>2</sup> place an asterisk or other mark against the name of any person; or

51 Vict. c. 10

#### References.

<sup>1</sup> See page 363.

<sup>2</sup> Subsection 5 of the section provides that—"Where in pursuance of section 4 of the Registration Act, 1885, the revising barrister has power to erase the name of any person as a parliamentary voter from division one of the occupiers' list, such barrister, in lieu of erasing the name, shall place an asterisk or other mark against the name, and, in printing such lists, the name shall be numbered consecutively with the other names, but an asterisk or other mark shall be printed against the name, and a person against whose name such asterisk or other mark is placed shall not be entitled to vote in respect of such entry at a parliamentary election, but shall have the same right of voting at an election of a county authority as he would have if no such mark were placed against his name."

#### References.

51 Vict. c. 10, s. 7

56 & 57 Vict.  
c. 73, s. 44.

41 & 42 Vict. c. 26

43 & 49 Vict. c. 15

(b.) In pursuance of section four of the Registration Act, 1885,<sup>1</sup> erase the name of any person otherwise than by reason of that name appearing more than once in the lists for the same parish ; or

(c.) In pursuance of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878,<sup>2</sup> as amended by section five of the Registration Act, 1885,<sup>3</sup> place against the name of a person a note to the effect that such person is not entitled to vote in respect of the qualification contained in the list, the revising barrister shall, instead of placing that mark or note, or erasing the name, place against the name, if the person is entitled to vote in respect of that entry as a county elector or burgess, a mark signifying that his name should be printed in division three of the list, or if he is entitled to vote only as a parochial elector, a mark signifying that he is entitled to be registered as a parochial elector, and the name so marked shall not be printed in the parliamentary register of electors, but shall be printed, as the case requires, either in division three of the local government register of electors, or in a separate list of parochial electors.

(7.) Where the name of a person is entered both in the ownership list and in the occupation list of voters in the same parish and the revising barrister places against that name a mark or note signifying that the name should be printed in division three of the lists, an asterisk or other mark shall be there printed against the name, and such person shall not be entitled to vote as a parochial elector in respect of that entry.

(8.) Such separate list shall form part of the register of parochial electors of the parish, and shall be printed at the end of the other lists of electors for the parish, and the names shall be numbered consecutively with the other names on those lists, and the law relating to the register of electors, shall, with the necessary modifications, apply accordingly, and the lists shall, for the purposes of this Act, be deemed to be part of such register.

(9.) Any person may claim for the purpose of having his name entered in the parochial electors' list, and the law relating to claims to be entered in lists of voters shall apply.

(10.) The clerk of the county council, or town clerk, as the case may be, shall, in printing the lists returned to him by the revising barrister, do everything that is necessary for carrying into effect the provisions of this section with respect to the persons whose names are marked by the revising barrister in pursuance of this section.

## References.

43 & 49 Vict. c. 15  
s. 4 (9).

## References.

<sup>1</sup> Subsection (9) of this section is as follows :—“ Sub-section fourteen of section “ twenty-eight of the Parliamentary and Municipal Registration Act, 1878, shall “ not apply to parliamentary counties, and in substitution for it the following “ provisions shall have effect :—

“ (a) Where the name of a person appears to be entered more than once as a “ parliamentary voter on the lists of voters for the same parliamentary county, “ the revising barrister shall inquire whether such entries relate to the same “ person, and, on proof that such entries relate to the same person, shall “ retain one entry and erase the others.

“ (b) The said person may select the entry to be retained by notice in writing “ delivered or sent by post to the revising barrister at or before the opening “ of the first court at which he revises any of the lists in which any of such “ entries appear, or by application made by such person or on his behalf at “ the time of the revision of the first of such lists.

“ (c) If no selection is so made the entry to be retained shall be determined as “ follows :

“ (i) if one only of the entries is on the list of ownership voters, that entry “ shall be retained ; and

“ (ii) if all or none of the entries are on the list of ownership voters, and one “ of the entries is the place of abode of the voter, the entry in respect “ of the place of abode shall be retained ; and

References.—*contd.*

## References.

“(iii) in any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained,

48 & 49 Vict.  
c. 15 s. 4 (9).

“and if any such entry to be retained is objected to, the revising barrister shall not finally erase any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.”

“Subsection (14) of this Section provides that “A revising barrister shall, with respect to the lists of voters for a parliamentary borough and the burgess lists for a municipal borough which he is appointed to revise, perform the duties and have the powers following :

41 & 42 Vic. c. 26  
s. 28 (14).

“Where the name of any person appears to be entered more than once as a parliamentary voter on the lists of voters for the same parliamentary borough, or more than once as a burgess on the burgess lists for the same municipal borough, the revising barrister shall inquire whether such entries relate to the same person; and on proof being made to him that such entries relate to the same person shall retain one of the entries for voting, and place against the other or others a note to the effect that the person is not entitled to vote in respect of the qualification therein contained for the parliamentary borough or for the municipal borough, as the case may be, he being on the list for voting in respect of another qualification :

“Any such person may, by notice in writing delivered to the revising barrister at the opening of his first revision court, select the entry to be retained for voting, and in making such selection may select one entry to be retained for voting for the parliamentary borough, and another entry to be retained for voting as a burgess for the municipal borough, but if he does not make any selection the entry to be so retained shall be selected by the revising barrister, except in the case of freemen, in which case the entry to be retained by the revising barrister for voting shall be that on the freemen's list.

“If any question on appeal, or otherwise, arise as to the validity of the qualification for which the parliamentary voter or burgess is on the list for voting, recourse may be had for supporting the right of the voter or burgess to be on the parliamentary register or burgess roll for voting to any other qualification of such person appearing on the register or burgess roll :

“Provided always, that in the case of a municipal borough divided into wards a vote given in or the right to vote in one ward shall not be supported by a qualification appearing on the burgess roll for some other ward.”

48 & 49 Vict. c. 15  
s. 5.

“This section provides :—“(1) Where a person is entered more than once as a parliamentary voter on the lists of voters for the same parliamentary borough, and the revising barrister proceeds in pursuance of sub-section fourteen of section twenty-eight of the Parliamentary and Municipal Registration Act, 1878, to retain one of such entries for voting, and places against the others a note to the effect that such person is not entitled to vote in respect of the qualification therein contained, and such person has not selected the entry to be retained, the entry to be retained shall be determined as follows :

“(a) If one of the entries is on the list of freemen that entry shall be retained ;  
“(b) If neither of the entries is on the list of freemen, and one of the entries is  
“the place of abode of the voter, the entry in respect of the place of abode shall be retained ; and

“(c) In any other case the entry in that one of the lists which is first revised by the revising barrister shall be retained ;

“and if any such entry to be retained is objected to, the revising barrister shall not finally place a note against any other entry until the objection to the entry to be retained has been determined by him in favour of the voter.

“(2) Where a parliamentary borough is divided into divisions, and notwithstanding the said provisions of the Parliamentary and Municipal Registration Act, 1878, and this Act, the name of a person is entered in the register of parliamentary voters in more than one division in the said parliamentary borough without such note as above in this section mentioned, and one of those entries is his place of abode, he shall be entitled to vote only in that division in which he is registered as a voter in respect of his place of abode, and shall not vote in respect of any other entry.”

56 & 57 Vict.  
c. 73, s. 45.

Supplemental  
provisions as to  
parish meetings.

**Sect. 45.**—(1.) Subject to the provisions of this Act, parish meetings shall be held on such days and at such times and places as may be fixed by the parish council, or, if there is no parish council, by the chairman of the parish meeting.

(2.) If the chairman of the parish council is present at a parish meeting and is not a candidate for election at the meeting, he shall, save as otherwise provided by this Act, be the chairman of the meeting.

(3.) The chairman of the parish council, or any two parish councillors, or the chairman of the parish meeting, or any six parochial electors, may at any time convene a parish meeting.

Disqualifications  
for parish or  
district council.

**Sect. 46.**—(1.) A person shall be disqualified for being elected or being a member or chairman of a council of a parish or of a district other than a borough or of a board of guardians if he—

- (a) is an infant or an alien ; or
- (b) has within twelve months before his election, or since his election, received union or parochial relief ; or
- (c) has, within five years before his election or since his election, been convicted either on indictment or summarily of any crime, and sentenced to imprisonment with hard labour without the option of a fine, or to any greater punishment, and has not received a free pardon, or has, within or during the time aforesaid, been adjudged bankrupt, or made a composition or arrangement with his creditors ; or
- (d) holds any paid office under the parish council or district council or board of guardians, as the case may be ; or
- (e) is concerned in any bargain or contract entered into with the council or board, or participates in the profit of any such bargain or contract or of any work done under the authority of the council or board.

(2.) Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council or board by reason of being interested—

- (a) in the sale or lease of any lands or in any loan of money to the council or board, or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood ; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council or board is inserted ; or
- (c) in any contract with the council or board as a shareholder in any joint stock company ; but he shall not vote at any meeting of the council or board on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

(3.) Where a person who is a parish councillor, or is a candidate for election as a parish councillor, is concerned in any such bargain or contract, or participates in any such profit, as would disqualify him for being a parish councillor, the disqualification may be removed by the county council if they are of opinion that such removal will be beneficial to the parish.

(4.) Where a person is disqualified by being adjudged bankrupt or making a composition or arrangement with his creditors, the disqualification shall cease, in case of bankruptcy, when the adjudication is annulled, or when he obtains his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part, and, in case of composition or arrangement, on payment of his debts in full.

(5.) A person disqualified for being a guardian shall also be disqualified for being a rural district councillor.

(6.) If a member of a council of a parish, or of a district other than a borough, or of a board of guardians, is absent from meetings of the council or board for

more than six months consecutively, except in case of illness or for some reason approved by the council or board, his office shall on the expiration of those months become vacant.

56 & 57 Vict.  
c. 73, s. 46.

(7.) Where a member of a council or board of guardians becomes disqualified for holding office, or vacates his seat for absence, the council or board shall forthwith declare the office to be vacant, and signify the same by notice signed by three members and countersigned by the clerk of the council or board, and notified in such manner as the council or board direct, and the office shall thereupon become vacant.

(8.) If any person acts when disqualified, or votes when prohibited under this section, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds.

(9.) This section shall apply in the case of any authority whose members are elected in accordance with this Act in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

**Sect. 47.**—(1.) If at the annual election of parish councillors any vacancies are not filled by election, such number of the retiring councillors as are not re-elected, and are required to fill the vacancies, shall, if willing, continue to hold office. The councillors so to continue shall be those who were highest on the poll at the previous election, or if the numbers were equal or there was no poll, as may be determined by the parish meeting, or if not so determined, by the chairman of the parish council.

Supplemental  
provisions as to  
parish councils.

(2.) A retiring parish councillor or chairman of a parish council or parish meeting shall be re-eligible.

(3.) A parish councillor may, by notice in writing to the chairman of the council, resign his office, and a chairman of a parish council or parish meeting may resign his chairmanship by notice in writing to the council or meeting.

(4.) A casual vacancy among parish councillors or in the office of chairman of the council shall be filled by the parish council, and where there is no parish council, a casual vacancy in the office of chairman of the parish meeting shall be filled by the parish meeting, and the person elected shall retire from office at the time when the vacating councillor or chairman would have retired.

(5.) If any parish council become unable to act by reason of a want of councillors, whether from failure to elect or otherwise, the county council may order a new election, and may by order make such provision as seems expedient for authorising any person to act temporarily in the place of the parish council and of the chairman thereof.

**Sect. 48.**—(1.) The election of a parish councillor shall be at a parish meeting, or at a poll consequent thereon.

Supplemental  
provisions as to  
elections, polls,  
and tenure of  
office.

(2.) Rules framed under this Act by the Local Government Board in relation to elections shall, notwithstanding anything in any other Act, have effect as if enacted in this Act, and shall provide, amongst other things—

(i.) for every candidate being nominated in writing by two parochial electors as proposer and seconder and no more ;

(ii.) for preventing an elector at an election for a union or for a district not a borough from subscribing a nomination paper or voting in more than one parish or other area in the union or district ;

(iii.) for preventing an elector at an election for a parish divided into parish wards from subscribing a nomination paper or voting for more than one ward ;

(iv.) for fixing or enabling the county council to fix the day of the poll and the hours during which the poll is to be kept open, so, however, that the poll shall always be open between the hours of six and eight in the evening ;

(v.) for the polls at elections held at the same date and in the same area being taken together, except where this is impracticable ;

(vi.) for the appointment of returning officers for the elections.

(3.) At every election regulated by rules framed under this Act, the poll shall

56 & 57 Vict.  
c. 73, s. 48.

35 & 36 Vict.  
c. 33.  
47 & 48 Vict.  
c. 70.  
45 & 46 Vict.  
c. 50.

be taken by ballot, and the Ballot Act, 1872,<sup>1</sup> and the Municipal Elections (Corrupt and Illegal Practices) Act, 1884,<sup>2</sup> and sections seventy-four and seventy-five and Part IV. of the Municipal Corporations Act, 1882,<sup>3</sup> as amended by the last-mentioned Act (including the penal provisions of those Acts) shall, subject to adaptations, alterations, and exceptions made by such rules, apply in like manner as in the case of a municipal election. Provided that—

(a) section six of the Ballot Act, 1872, shall apply in the case of such elections, and the returning officer may, in addition to using the schools and public rooms therein referred to free of charge, for taking the poll, use the same. free of charge, for hearing objections to nomination papers and for counting votes; and

(b) section thirty-seven of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, shall apply as if the election were an election mentioned in the First Schedule to that Act.

(4.) The provisions of the Municipal Corporations Act, 1882, and the enactments amending the same, with respect to the expenses of councillors of a borough, and to the acceptance of office, resignation, re-eligibility of holders of office, and the filling of casual vacancies, and section fifty-six of that Act,<sup>4</sup> shall, subject to the adaptations, alterations, and exceptions made by the said rules, apply in the case of guardians and of district councillors of a county district not a borough, and of members of the local board of Woolwich, and of a vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same. Provided that—

(a) the provisions as to resignation shall not apply to guardians, and district councillors of a rural district shall be in the same position with respect to resignation as members of a board of guardians; and

(b) nothing in the enactments applied by this section shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election; and

(c) the rules may provide for the incidence of the charge for the expenses of the elections of guardians being the same as heretofore.

(5.) If any difficulty arises as respects the election of any individual councillor or guardian, or member of any such local board or vestry as aforesaid, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

(6.) Any ballot boxes, fittings, and compartments provided by or belonging to any public authority, for any election (whether parliamentary, county council, municipal, school board, or other), shall, on request, and if not required for immediate use by the said authority, be lent to the returning officer for an election under this Act, upon such conditions and either free of charge or, except in the prescribed cases, for such reasonable charge as may be prescribed.

(7.) The expenses of any election under this Act shall not exceed the scale fixed by the county council, and if at the beginning of one month before the first election under this Act a county council have not framed any such scale for their county, the Local Government Board may frame a scale for the county, and the scale so framed shall apply to the first election, and shall have effect as if it had been made by the county council, but shall not be alterable until after the first election.

(8.) This section shall, subject to any adaptations made by the said rules, apply in the case of every poll consequent on a parish meeting, as if it were a poll for the election of parish councillors.

**Sect. 49.** Where a parish meeting is required or authorised in pursuance of this Act to be held for a ward or other part of a parish, then—

<sup>1</sup> See page 296.

<sup>2</sup> See page 338.

<sup>3</sup> See pages 330 to 337.

<sup>4</sup> See pages 329, 330, 337 and 338.



- (a) the persons entitled to attend and vote at the meeting, or at any poll consequent thereon, shall be the parochial electors registered in respect of qualifications in that ward or part; and
- (b) the provisions of this Act with respect to parish meetings for the whole of a parish, including the provisions with respect to the convening of a parish meeting by parochial electors, shall apply as if the ward or part were the whole parish.

56 & 57 Vict.  
C. 73, s. 49.

**Sect. 50.** If, in the case of a rural parish or of any urban parish in respect to which the power of appointing overseers has been transferred under this Act, notice in the prescribed form of the appointment of overseers is not received by the guardians of the poor law union comprising the parish within three weeks after the fifteenth day of April, or after the occurrence of a vacancy in the office of overseer, as the case may be, the guardians shall make the appointment or fill the vacancy, and any overseer appointed by the guardians shall supersede any overseer previously appointed whose appointment has not been notified. Any such notice shall be admissible as evidence that the appointment has been duly made.

Supplemental  
provisions as to  
overseers.

### *Parish and District Councils.*

**Sect. 51.** A public notice given by a parish council for the purposes of this Act, or otherwise for the execution of their duties, and a public notice of a parish meeting, shall be given in the manner required for giving notice of vestry meetings, and by posting the notice in some conspicuous place or places within the parish, and in such other manner (if any) as appears to the council or to the persons convening the meeting desirable for giving publicity to the notice.

Public notices.

**Sect. 52.—(1.)** Any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish or by the majority of them under any of the Acts relating to the relief of the poor or under the School Sites Acts or the Literary and Scientific Institutions Act, 1854,<sup>1</sup> so far as respects the dealing with parish property or the spending of money or raising of a rate may, in the case of a rural parish, be exercised or given by the parish meeting of the parish.

Supplemental  
provisions as to  
transfer of  
powers.

17 & 18 Vict.  
C. 112.

(2.) In a rural parish the power of making an application or passing a resolution given by section twelve of the Elementary Education Act, 1870, and by section forty-one of the Elementary Education Act, 1876,<sup>2</sup> to the electing body mentioned in the former section shall be transferred to the parish meeting of the parish, and shall in cases under the latter section be exercisable by the like majority of the parish meeting, and, if a poll is taken, of the parochial electors, as is required by that section in the case of the said electing body, and rule two of the Second Part of the Second Schedule to the former Act with respect to the passing of such resolutions shall not apply.

33 & 34 Vict.  
C. 75.  
39 & 40 Vict.  
C. 79.

### **References.**

<sup>1</sup> See page 22.

<sup>2</sup> The following are the enactments referred to:—

33 & 34 VICT. C. 75.

“Sect. 12. In the following cases, (that is to say,)”

“(1) Where application is made to the Education Department with respect to any school district by the persons who, if there were a school board in that district, would elect the school board, or with respect to any borough, by the council;

“(2) Where the Education Department are satisfied that the managers of any elementary school in any school district are unable or unwilling any longer to maintain such school, and that if the school is discontinued the amount of public school accommodation for such district will be insufficient,

“the Education Department may, if they think fit, without making the inquiry or publishing the notices required by this Act before the formation of a school board, but after such inquiry public or other, and such notice as the Education Department think sufficient, cause a school board to be formed for such district,

S

### **References.**

33 & 34 Vict.  
C. 75, s. 12.

References.

33 & 34 Vict.  
c. 75, s. 12.

39 & 40 Vic. c. 79,  
s. 41.

References.—contd.

“and send a requisition to such school board in the same manner in all respects as if they had published a final notice.”

“An application for the purposes of this section may be made by a resolution passed by the said electing body after notice published at least a week previously or by the Council, and the provisions of the second part of the second schedule to this Act with respect to the passing of such resolution shall be observed.”

*Sched. II, Part II.* “(1) The meeting of a council for the purpose of passing such a resolution shall be summoned in the manner in which a meeting of the council is ordinarily summoned, and the resolution shall be passed by a majority of the members present and voting on the question.

“(3) If a resolution is rejected, the resolution shall not be again proposed until the lapse of twelve months from the date of such rejection.”

39 & 40 VICT. C. 79.

“**Sect. 41.** Where application for the dissolution of a school board is made to the Education Department by the like persons and in the like manner as an application for the formation of a school board, under section 12 of the Elementary Education Act, 1870, nevertheless by a majority of not less than two-thirds of those who shall vote upon the occasion, and the Education Department are satisfied that no school and no site for a school is in the possession or under the control of the school board, and that there is a sufficient amount of public school accommodation for the district of the school board, and no requisition has been sent by the Education Department to such school board under section 10 of the Elementary Education Act, 1870, requiring them to supply public school accommodation, it shall be the duty of the Education Department to take the circumstances of the case into consideration, and if they shall be of opinion that the maintenance of a school board is not required for the purposes of education in the district, it shall be lawful for the Education Department, after such notice as they think sufficient, to order the dissolution of the school board: Provided always, that no application shall be made for the dissolution of a school board except within six months before the expiration of the period for which the school board has been elected, and no order for the dissolution of such school board shall take effect until after the expiration of such period, except that after the order is made an election of members of that board shall not be held.

“The Education Department by any such order shall make provision for the disposal of all money, furniture, books, documents, and property belonging to the school board, and for the discharge out of the local rate of all the liabilities of the board, and such other provisions as appear to the Department necessary or proper for carrying into effect the dissolution of the board.

“The Education Department shall publish the order in manner directed by the Elementary Education Act, 1873, with respect to the publication of notices, and after the date of such publication, or any later date mentioned in the order, the order shall have effect as if it were enacted by Parliament, without prejudice nevertheless to the subsequent formation of a school board in the same school district; all byelaws previously made by the school board shall continue in force, subject nevertheless to be revoked or altered by the local authority under this Act: Provided, that if after the dissolution of a school board in any school district the Education Department are of opinion that there is not a sufficient amount of public school accommodation in such school district, they may after due notice cause a school board to be formed for such school district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice under the Elementary Education Act, 1870.

“The Education Department shall in each case where it shall assent to the dissolution of a school board lay before both Houses of Parliament a statement of its reasons for giving such assent.”

(3.) The consent of justices shall not be required for the sale of land belonging to a parish which has been used for materials for the repair of highways or for the purchase of land with the proceeds of any such sale.

56 & 57 Vict.  
c. 73, s. 52.

(4.) Where the legal estate in any property is vested in the churchwardens and overseers of any parish by virtue of the Poor Relief Act, 1819,<sup>1</sup> nothing in the Charitable Trusts Acts, 1853 to 1891,<sup>2</sup> shall be deemed to require the consent of such churchwardens and overseers in their capacity as a corporation under that Act, or of the parish council as their successors, to a vesting order under those Acts dealing with the said legal estate. Provided that nothing in this section shall affect any rights, powers, or duties of the churchwardens and overseers or the parish council, in cases where they have active powers of management.

59 Geo. III.  
c. 12.

(5.) All enactments in any Act, whether general or local and personal, relating to any powers, duties, or liabilities transferred by this Act to a parish council or parish meeting from justices or the vestry or overseers or churchwardens and overseers shall, subject to the provisions of this Act and so far as circumstances admit, be construed as if any reference therein to justices or to the vestry, or to the overseers, or to the churchwardens and overseers, referred to the parish council or parish meeting as the case requires, and the said enactments shall be construed with such modifications as may be necessary for carrying this Act into effect.

**Sect. 53.**—(1.) Where on the appointed day any of the adoptive Acts is in force in a part only of a rural parish, the existing authority under the Act, or the parish meeting for that part, may transfer the powers, duties, and liabilities of the authority to the parish council, subject to any conditions with respect to the execution thereof by means of a committee as to the authority or parish meeting may seem fit, and any such conditions may be altered by any such parish meeting.

Supplemental  
provisions as to  
adoptive Acts.

(2.) If the area on the appointed day under any authority under any of the adoptive Acts will not after that day be comprised within one rural parish, the powers and duties of the authority shall be transferred to the parish councils of the rural parishes wholly or partly comprised in that area, or, if the area is partly comprised in an urban district, to those parish councils and the district council of the urban district, and shall, until other provision is made in pursuance of this Act, be exercised by a joint committee appointed by those councils. Where any such rural parish has not a parish council the parish meeting shall, for the purposes of this provision, be substituted for the parish council.

(3.) The property, debts, and liabilities of any authority under any of the adoptive Acts whose powers are transferred in pursuance of this Act shall continue to be the property, debts, and liabilities of the area of that authority, and the proceeds of the property shall be credited, and the debts and liabilities and the expenses incurred in respect of the said powers, duties, and liabilities, shall be charged to the account of the rates or contributions levied in that area, and where that area is situate in more than one parish the sums credited to and paid by each parish shall be apportioned in such manner as to give effect to this enactment.

(4.) The county council on the application of a parish council may, by order, alter the boundaries of any such area if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right.

**Sect. 54.**—(1.) Where a new borough is created, or any other new urban district is constituted, or the area of an urban district is extended, then—

Effect on parish  
council of  
constitution of  
urban district.

(a) as respects any rural parish or part of a rural parish which will be comprised in the borough or urban district, provision shall be made, either by the constitution of a new parish, or by the annexation of the parish or parts thereof to another parish or parishes, or otherwise, for the appointment of overseers and for placing the parish or part in the same position as other parishes in the borough or district, and

<sup>1</sup> See page 53.

<sup>2</sup> See page 54.

56 & 57 Vict.  
c. 73, s. 54.

(b) as respects any parish or part which remains rural, provision shall be made for the constitution of a new parish council for the same, or for the annexation of the parish or part to some other parish or parishes, or otherwise for the government of the parish or part, and

(c) provision shall also where necessary be made for the adjustment of any property, debts, and liabilities affected by the said creation, constitution, or extension.

45 & 46 Vict.  
c. 50.

(2.) The provision aforesaid shall be made—

(a.) Where a new borough is created, by a scheme under section two hundred and thirteen of the Municipal Corporations Act, 1882;<sup>1</sup>

(b.) Where any other new urban district is constituted, by an order of the county council under section fifty-seven of the Local Government Act, 1888;<sup>2</sup>

(c.) Where the area of an urban district is extended, by an order of the Local Government Board under section fifty-four,<sup>3</sup> or of the county council under section fifty-seven,<sup>2</sup> as the case may be, of the Local Government Act, 1888.

(3.) Where the area of an urban district is diminished this section shall apply with the necessary modifications.

Power to change  
name of district  
or parish.

**Sect. 55.**—(1.) Where a parish is divided or united or grouped with another parish by an order in pursuance of this Act each new parish or group so formed shall bear such name as the order directs.

(2.) Where a parish is divided by this Act, each parish so formed shall bear such name as the county council direct.

(3.) Any district council may, with the sanction of the county council, change their name and the name of their district.

(4.) Every change of name made in pursuance of this section shall be published in such manner as the authority authorising the change may direct, and shall be notified to the Local Government Board.

(5.) Any such change of name shall not affect any rights or obligations of any parish, district, council, authority, or person, or render defective any legal proceedings, and any legal proceedings may be continued or commenced as if there were no change of name.

Committees of  
parish or district  
councils.

**Sect. 56.**—(1.) A parish or district council may appoint committees, consisting either wholly or partly of members of the council, for the exercise of any powers which, in the opinion of the council, can be properly exercised by committees, but a committee shall not hold office beyond the next annual meeting of the council, and the acts of every such committee shall be submitted to the council for their approval.

Provided that where a committee is appointed by any district council for any of the purposes of the Public Health Acts or Highway Acts, the council may authorise the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract.

(2.) Where a parish council have any powers and duties which are to be exercised in a part only of the parish, or in relation to a recreation ground, building, or property held for the benefit of a part of a parish, and the part has a defined boundary, the parish council shall, if required by a parish meeting held for that part, appoint annually to exercise such powers and duties a committee consisting partly of members of the council and partly of other persons representing the said part of the parish.

(3.) With respect to committees of parish and district councils the provisions in the First Schedule to this Act shall have effect.

(4.) This section shall not apply to the council of a borough.

Joint com-  
mittees.

**Sect. 57.**—(1.) A parish or district council may concur with any other parish or district council or councils in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested,

<sup>1</sup> See page 337.

<sup>2</sup> See page 363.

<sup>3</sup> See page 362.

and in conferring, with or without conditions or restrictions, on any such committee any powers which the appointing council might exercise if the purpose related exclusively to their own parish or district.

56 & 57 Vict.  
c. 73, s. 57.

(2.) Provided that a council shall not delegate to any such committee any power to borrow money or make any rate.

(3.) A joint committee appointed under this section shall not hold office beyond the expiration of fourteen days after the next annual meeting of any of the councils who appointed it.

(4.) The costs of a joint committee under this section shall be defrayed by the councils by whom it is appointed in such proportions as they may agree upon, or as may be determined in case of difference by the county council.

(5.) Where a parish council can under this Act be required to appoint a committee consisting partly of members of the council and partly of other persons, that requirement may also be made in the case of a joint committee, and shall be duly complied with by the parish councils concerned at the time of the appointment of such committee.

**Sect. 58.**—(1.) The accounts of the receipts and payments of parish and district councils, and of parish meetings for parishes not having parish councils, and their committees and officers, shall be made up yearly to the thirty-first day of March, or in the case of accounts which are required to be audited half-yearly, then half-yearly to the thirtieth day of September and the thirty-first day of March in each year, and in such form as the Local Government Board prescribe.

Audit of accounts  
of district and  
parish councils  
and inspection.

(2.) The said accounts shall, except in the case of accounts audited by the auditors of a borough, (but inclusive of the accounts of a joint committee appointed by a borough council with another council not being a borough council,) be audited by a district auditor, and the enactments relating to audit by district auditors of accounts of urban sanitary authorities and their officers, and to all matters incidental thereto and consequential thereon, shall apply accordingly, except that in the case of the accounts of rural district councils, their committees and officers, the audit shall be half-yearly instead of yearly.

(3.) The Local Government Board may, with respect to any audit to which this section applies, make rules modifying the enactments as to publication of notice of the audit and of the abstract of accounts and the report of the auditor.

(4.) Every parochial elector of a rural parish may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the parish council of the parish or parish meeting.

(5.) Every parochial elector of a parish in a rural district may, at all reasonable times, without payment, inspect and take copies of and extracts from all books, accounts, and documents belonging to or under the control of the district council of the district.

**Sect. 59.**—(1.) Section one hundred and ninety-nine and Schedule I. of the Public Health Act, 1875,<sup>1</sup> so far as that schedule is unrepealed (which relate to the meetings of urban authorities, and to the meetings and proceedings of local boards), shall apply in the case of every urban district council other than a borough council and of every rural district council and board of guardians, as if such district council or board were a local board, except that the chairman of the council or board may be elected from outside the councillors or guardians.

Supplementa  
provisions as to  
district councils.  
58 & 39 Vict.  
c. 55.

(2.) Any urban district council other than a borough council, and any rural district council and board of guardians may, if they think fit, appoint a vice-chairman to hold office during the term of office of the chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(3.) Any rural district council shall be entitled to use for the purpose of their meetings and proceedings the board room and offices of any board of guardians

<sup>1</sup> See pages 314 and 328.

56 & 57 Vict.  
c. 73, s. 59.

for the union comprising their district at all reasonable hours, and if any question arises as to what hours are reasonable it may be determined by the Local Government Board.

(4.) Nothing in this section shall affect any powers of the Local Government Board with respect to the proceedings of guardians.

(5.) If any district council, other than a borough council, become unable to act, whether from failure to elect or otherwise, the county council of the county in which the district is situate may order elections to be held and may appoint persons to form the district council until the newly elected members come into office.

20 & 21 Vict.  
c. 22.

(6.) Nothing in this Act shall affect any powers of the Secretary of State under the Public Health Supplemental Act for Aldershot, 1857,<sup>1</sup> or the position of persons nominated under those powers.

### *Miscellaneous.*

Supplemental  
provisions as to  
guardians.

**Sect. 60.**—(1.) The council of each county may, from time to time, by order, fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and for those purposes may exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Local Government Board.

(2.) The council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, and in order that as nearly as may be one-third of the persons elected as guardians for the union, and one-third of the persons elected as rural district councillors for the district, shall retire in each year, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

(3.) Where a poor law union is situate in more than one county, the power under this section of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, shall be exercised by a joint committee of the councils of the counties concerned, but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed shall act as the joint committee.

Provided that if any order under this sub-section is, within six weeks after the making thereof, objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, it shall be of no effect until confirmed by the Local Government Board.

(4.) Where under any local and personal Act guardians of a poor law union are elected for districts, whether called by that name or not, the provisions of this Act with respect to the election of guardians shall apply as if each of the districts were a parish.

(5.) The board of guardians of a union elected in pursuance of this Act, shall, save as otherwise provided by an order of the Local Government Board, made on the application of those guardians, have the same powers and duties under any local and personal Act as the existing board of guardians.

(6.) Nothing in this Act shall alter the constitution of the corporation of the guardians of the poor within the city of Oxford, or the election or qualification of the members thereof, except those members who are elected by the ratepayers of parishes.

Place of meeting  
of parish or  
district council  
or board of  
guardians.

**Sect. 61.** No parish meeting or meeting of a parish council, or of a district council, or of a board of guardians shall be held in premises licensed for the sale of intoxicating liquor, except in cases where no other suitable room is available for such meeting either free of charge or at a reasonable cost.

<sup>1</sup> See page 120.

**Sect. 62.**—(1.) Where there is in any urban district, or part of an urban district, any authority constituted under any of the adoptive Acts, the council of that district may resolve that the powers, duties, property, debts, and liabilities of that authority shall be transferred to the council as from the date specified in the resolution, and upon that date the same shall be transferred accordingly, and the authority shall cease to exist, and the council shall be the successors of that authority.

56 & 57 Vict.  
c. 73, s. 62.

Permissive transfer to urban district council of powers of other authorities.

(2.) After the appointed day any of the adoptive Acts shall not be adopted for any part of an urban district without the approval of the council of that district.

**Sect. 63.**—(1.) Where the powers of a district council are by virtue of a resolution under this Act transferred to a county council, the following provisions shall have effect:—

Provisions as to county council acquiring powers of district council.

(a.) Notice of the resolution of the county council by virtue of which the transfer is made shall be forthwith sent to the district council and to the Local Government Board.

(b.) The expenses incurred by the county council shall be a debt from the district council to the county council, and shall be defrayed as part of the expenses of the district council in the execution of the Public Health Acts, and the district council shall have the like power of raising the money as for the defraying of those expenses:

(c.) The county council for the purpose of the powers transferred may on behalf of the district council borrow subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the purpose of those powers.

(d.) The county council may charge the said fund or rate with the payment of the principal and interest of the loan, and the loan with the interest thereon shall be paid by the district council in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on that fund or rate by the district council:

(e.) The county council shall keep separate accounts of all receipts and expenditure in respect of the said powers:

(f.) The county council may by order vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and the property, debts, and liabilities so vested shall be deemed to have been acquired or incurred by the district council for the purpose of those powers.

(2.) Where a rural district is situate in two or more counties a parish council complaining under this Act may complain to the county council of the county in which the parish is situate, and if the subject-matter of the complaint affects any other county the complaint shall be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee shall be determined by the Local Government Board, and if any members of the joint committee are not appointed the members who are actually appointed shall act as the joint committee.

**Sect. 64.** A county council may employ a district council as their agents in the transaction of any administrative business on matters arising in or affecting the interest of its own district.

Power to act through district council.

**Sect. 65.** Where any improvement commission affected by this Act have any powers, duties, property, debts or liabilities in respect of any harbour, the improvement commission shall continue to exist and be elected for the purpose thereof, and shall continue as a separate body, as if this Act had not passed, and the property, debts, and liabilities shall be apportioned between the district council for the district and the commission so continuing, and the adjustment arising out of the apportionment shall be determined in manner provided by this Act.

Saving for harbour powers.

**Sect. 66.** Nothing in this Act shall affect the trusteeship, management, or control of any elementary school.

Saving for elementary schools.

56 & 57 Vict.  
c. 73, s. 67.

Transfer of  
property and  
debts and  
liabilities.

**Sect. 67.** Where any powers and duties are transferred by this Act from one authority to another authority—

- (1.) All property held by the first authority for the purpose or by virtue of such powers and duties shall pass to and vest in the other authority, subject to all debts and liabilities affecting the same; and
- (2.) The latter authority shall hold the same for the estate, interest, and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Act had not passed, so far as the same are not modified by or in pursuance of this Act; and
- (3.) All debts and liabilities of the first authority incurred by virtue of such powers and duties shall become debts and liabilities of the latter authority, and be defrayed out of the like property and funds out of which they would have been defrayed if this Act had not passed.

Adjustment of  
property and  
liabilities.

**Sect. 68.**—(1.) Where any adjustment is required for the purpose of this Act, or of any order, or thing made or done under this Act, then, if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this Act, or such scheme, order, or thing, of the parties to the agreement.

(2.) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and for the joint use of any property and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

52 & 53 Vict.  
c. 49.

(3.) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889,<sup>1</sup> and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.

(4.) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this Act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.

(5.) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

Power to deal  
with matters  
arising out of  
alteration of  
boundaries.

**Sect. 69.** Where an alteration of any area is made by this Act, an order for any of the matters mentioned in section fifty-nine of the Local Government Act, 1888,<sup>2</sup> may, if it appears to the county council desirable, be made by the county council, or in the case of an area situate in more than one county, by a joint committee of county councils, but nothing in this section shall empower a county council or joint committee to alter the boundaries of a county.

<sup>1</sup> See page 366.

<sup>2</sup> See page 364.



**Sect. 70.**—(1.) If any question arises, or is about to arise, as to whether any power, duty, or liability is or is not transferred by or under this Act to any parish council, parish meeting or district council, or any property is or is not vested in the parish council, or in the chairman and overseers of a rural parish, or in a district council, that question, without prejudice to any other mode of trying it, may, on the application of the council meeting, or other local authority concerned, be submitted for decision to the High Court in such summary manner as, subject to any rules of Court, may be directed by the Court; and the Court, after hearing such parties and taking such evidence (if any) as it thinks just, shall decide the question.

(2.) If any question arises or is about to arise under this Act as to the appointment of the trustees or beneficiaries of any charity, or as to the persons in whom the property of any charity is vested, such question shall, at the request of any trustee, beneficiary, or other person interested, be determined in the first instance by the Charity Commissioners, subject to an appeal to the High Court, brought within three months after such determination. Provided that an appeal to the High Court of Justice from any determination of the Charity Commissioners under this section may be presented only under the same conditions as are prescribed in the case of appeals to the High Court from orders made by the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1891.<sup>1</sup>

(3.) An appeal shall, with the leave of the High Court or Court of Appeal but not otherwise, lie to the Court of Appeal against any decision under this section.

**Sect. 71.** A copy of every order made by a county council or joint committee in pursuance of this Act shall be sent to the Local Government Board, and, if it alters any local area or name, also to the Board of Agriculture.

**Sect. 72.**—(1.) The expenses incurred by the Local Government Board in respect of inquiries or other proceedings under this Act shall be paid by such authorities and persons and out of such funds and rates as the Board may by order direct, and the Board may certify the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by any authority or person shall be a debt from that authority or person to the Crown.

(2.) Such expenses may include the salary of any inspector or officer of the Board engaged in the inquiry or proceeding, not exceeding three guineas a day.

(3.) The Local Government Board and their inspectors shall have for the purposes of an inquiry in pursuance of this Act the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875.<sup>2</sup>

(4.) Where a county council hold a local inquiry under this Act, or under the Local Government Act, 1888, on the application of the council of a parish or district, or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) shall be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting; but, save as aforesaid, the expenses of the county council incurred in the case of inquiries under this Act shall be paid out of the county fund.

**Sect. 73.** When the day on which any thing is required by or in pursuance of this Act to be done is Sunday, Christmas Day, or Good Friday, or a bank holiday, that thing shall be done on the next following day, not being one of the days above mentioned.

**Sect. 74.** This Act shall be deemed to be an Act touching local government within the meaning of section forty-nine of the Local Government Act, 1888,<sup>3</sup> and a provisional order for the Scilly Islands may, on the application of the council of the Isles of Scilly, and after such public notice as appears to the Local Government Board sufficient for giving information to all persons interested, be made accordingly.

56 & 57 Vict.  
c. 73, s. 70.

Summary proceeding for determination of questions as to transfer of powers.

Supplemental provisions as to county council orders.

Provisions as to local inquiries.

Provision as to Sundays and bank holidays.

Provisions as to Scilly Islands.  
51 & 52 Vict.  
c. 41.

<sup>1</sup> See page 78.

<sup>2</sup> See Sections 293 to 296 of the Public Health Act, 1875, page 326.

<sup>3</sup> See page 362.

56 & 57 Vict.  
c. 73, s. 75.

Construction of  
Act.  
51 & 52 Vict.  
c. 41.

**Sect. 75.**—(1.) The definition of “parish” in section one hundred of the Local Government Act, 1888, shall not apply to this Act, but, save as aforesaid, expressions used in this Act shall, unless the context otherwise requires, have the same meaning as in the said Act.<sup>1</sup>

(2.) In this Act, unless the context otherwise requires—

Any reference to population means the population according to the census of one thousand eight hundred and ninety-one.

The expression “parochial elector,” when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a parochial elector of the parish if it were a rural parish.

The expression “election” includes both the nomination and the poll.

The expression “trustees” includes persons administering or managing any charity or recreation ground, or other property or thing in relation to which the word is used.

The expression “ecclesiastical charity” includes a charity, the endowment whereof is held for some one or more of the following purposes:—

(a) for any spiritual purpose which is a legal purpose; or

(b) for the benefit of any spiritual person or ecclesiastical officer as such; or

(c) for use, if a building, as a church, chapel, mission room, or Sunday school, or otherwise by any particular church or denomination; or

(d) for the maintenance, repair, or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or

(e) otherwise for the benefit of any particular church or denomination, or of any members thereof as such.

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act; and the Charity Commissioners shall, on application by any person interested, make such provisions for the apportionment and management of that endowment as seems to them necessary or expedient for giving effect to this Act.

The expression shall also include any building which in the opinion of the Charity Commissioners has been erected or provided within forty years before the passing of this Act mainly by or at the cost of members of any particular church or denomination.

The expression “affairs of the church” shall include the distribution of offertories or other collections made in any church.

The expression “parochial charity” means a charity the benefits of which are or the separate distribution of the benefits of which is confined to inhabitants of a single parish, or of a single ancient ecclesiastical parish divided into two or more parishes, or of not more than five neighbouring parishes.

The expression “vestry” in relation to a parish means the inhabitants of the parish whether in vestry assembled or not, and includes any select vestry either by statute or at common law.

The expression “rateable value” means the rateable value stated in the valuation list in force, or, if there is no such list, in the last poor rate.

The expression “county” includes a county borough, and the expression “county council” includes the council of a county borough.

The expression “elementary school” means an elementary school within the meaning of the Elementary Education Act, 1870.

The expression “local and personal act” includes a Provisional Order confirmed by an Act and the Act confirming the Order.

The expression “prescribed” means prescribed by order of the Local Government Board.

**Sect. 76.** This Act shall not extend to Scotland or Ireland.

**Sect. 77.** This Act may be cited as the Local Government Act, 1894.

<sup>1</sup> See the definitions on page 7.

33 & 34 Vict.  
c. 75.

Extent of Act.  
Short title.

## PART V.

## TRANSITORY PROVISIONS.

56 & 57 Vict.  
c. 73, s. 78.

**Sect. 78.—(1.)** The overseers of each rural parish shall convene the first parish meeting of the parish at the time fixed by or under this Act for the first election of parish councillors, whether there is or is not a parish council for the parish, and for this purpose the overseers of a parish shall be deemed to be the overseers of every part of the parish.

First elections to  
parish councils.

(2.) The chairman of the parish meeting at which the first parish councillors are nominated, or in his default the clerk of the guardians, shall convene the first meeting of the parish council.

(3.) The first parish councillors and the first chairman of a parish meeting elected under this Act shall retire on the second ordinary day of coming into office of councillors which happens after their election.

**Sect. 79.—(1.)** The existing boards of guardians and urban and rural sanitary authorities shall take the necessary measures for the conduct of the first elections of guardians and district councillors respectively under this Act, including any appointment of returning officers required by rules under this Act.

First elections of  
guardians and  
district councils.

(2.) Where a parish is divided by this Act into two or more new parishes, then, subject to any order made by the county council, there shall be one guardian, and if it is in a rural district, one district councillor for each of such new parishes.

(3.) Of the guardians and urban and rural district councillors first elected under this Act, save as herein-after mentioned, one-third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-six, and shall then retire; and one third as nearly as may be shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-seven, and shall then retire; and the remainder shall continue in office until the fifteenth day of April one thousand eight hundred and ninety-eight, and shall then retire.

(4.) The guardians and rural district councillors to retire respectively on the fifteenth day of April one thousand eight hundred and ninety-six and on the fifteenth day of April one thousand eight hundred and ninety-seven shall be the guardians and rural district councillors for such parishes, wards, or other areas, as may be determined by the county council for the purpose of the rotation.

(5.) Where guardians or rural district councillors retire together at the end of the triennial period, the guardians and district councillors first elected under this Act shall retire on the fifteenth day of April one thousand eight hundred and ninety-eight.

(6.) Of the first urban district councillors elected under this Act, the third who are respectively to retire on the fifteenth day of April one thousand eight hundred and ninety-six and one thousand eight hundred and ninety-seven shall be determined according to their place on the poll at the election, those that were lowest on the poll retiring first. If there was no poll, or if a question arises in consequence of an equality of votes between two or more councillors, the matter shall be determined by ballot conducted under the direction of the council.

(7.) In the case of an urban district divided into wards, the foregoing provisions with respect to retirement shall apply separately to each ward.

(8.) Upon the day on which the first guardians and urban or rural district councillors elected under this Act come into office, the persons who are then members of boards of guardians, and urban and rural sanitary authorities, shall cease to hold office, but until that day the persons who are at the passing of this Act guardians and members of urban sanitary authorities (for urban districts not being boroughs) and of highway boards shall continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and, except for the purpose of filling casual vacancies or electing additional guardians, no further elections shall be held.

(9.) The first meeting of each district council elected under this Act shall be convened by the returning officer.

56 & 57 Vict.  
c. 73, s. 79.

(10.) The foregoing provisions shall apply to the existing members and first members elected under this Act of the local board of Woolwich and of any vestry under the Metropolis Management Acts, 1855 to 1890, and any Act amending the same, and to the existing and first auditors elected under those Acts in like manner as if they were members of urban sanitary authorities or urban district councillors as the case may require, except that the date of the annual election shall be substituted for the fifteenth day of April.

(11.) The overseers of any parish divided by this Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the said parish, which by reason of such division becomes a separate parish.

Power of county  
council to remove  
difficulties.

**Sect. 80.**—(1.) If any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or of members of the local board of Woolwich, or any vestry in the county of London, or of auditors in the county of London, or to the first meeting of a parish or district council, or board of guardians, or such local board or vestry as aforesaid, or if, from no election being held or an election being defective or otherwise, the first parish or district council, or board of guardians, or local board or vestry has not been properly constituted, or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the parish or district council, board of guardians, local board, or vestry, or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election, but a parish shall, notwithstanding any such failure to constitute the parish council, be deemed to be a parish having a parish council within the meaning of this Act. Any such order may modify the provisions of this Act, and the enactments applied by or rules framed under this Act so far as may appear to the county council necessary or expedient for carrying the order into effect.

(2.) The Local Government Board shall make regulations for expediting and simplifying the procedure under section fifty-seven of the Local Government Act, 1888,<sup>1</sup> in all cases in the year one thousand eight hundred and ninety-four, for the purpose of bringing this Act into immediate operation, and such regulations may dispense with the final approval of an order by the county council in cases where the prescribed notice of the proposed order has been given before it is made by the county council.

Existing officers.

**Sect. 81.**—(1.) Where the powers and duties of any authority other than justices are transferred by this Act to any parish or district council, the officers of that authority shall become the officers of that council, and for the purposes of this section the body appointing a surveyor of highways shall be deemed to be a highway authority and any paid surveyor to be an officer of that body.

(2.) Where there is in a rural parish an existing vestry clerk appointed under the Vestries Act, 1850, he shall become the clerk of the parish council, and if there is also an assistant overseer in the parish, then, notwithstanding the foregoing provisions of this Act, that assistant overseer shall not, while such vestry clerk holds office, be the clerk of the parish council.

(3.) Any existing assistant overseer in a parish for which a parish council is elected shall unless appointed by a board of guardians, become an officer of the parish council.

(4.) Every such officer, vestry clerk, and assistant overseer, as above in this section mentioned shall hold his office by the same tenure and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore.

13 & 14 Vict.  
c. 57.

<sup>1</sup> See page 363.

(5.) Where a parish or rural sanitary district is divided by this Act, any officer for the parish or district so divided shall hold his office as such officer for each parish or district formed by the division, and his salary shall be borne by the respective parishes or districts in proportion to their rateable value at the commencement of the local financial year next after the passing of this Act.

56 & 57 Vict.  
c. 73, s. 81.

(6.) So much of any enactment as authorises the appointment of assistant overseers by a board of guardians shall be repealed as from the appointed day.

(7.) Section one hundred and twenty of the Local Government Act, 1888,<sup>1</sup> which relates to compensation to existing officers, shall apply in the case of existing officers affected by this Act, whether officers above in this section mentioned or not, as if references in that section to the county council were references to the parish council, or the district council, or board of guardians or other authority whose officer the person affected is when the claim for compensation arises as the case may require. Provided that all expenses incurred by a district council in pursuance of this section shall be paid as general expenses of the council, and any expenses incurred by a board of guardians in pursuance of this section shall be paid out of their common fund, and any expenses incurred by any other authority in pursuance of this section shall be paid out of the fund applicable to payment of the salary of the officers affected.

51 & 52 Vict. c. 41

**Sect. 82.**—(1.) Where before the appointed day the highway expenses were charged on a particular parish or other area and not on a district, the district council may determine that the highways in that parish or area shall be placed in proper repair before the expenses of repairing the same become a charge upon the district, and, failing such highways being placed in proper repair to the satisfaction of the district council, the district council may themselves place the highways in proper repair, and the expense incurred by them of placing those highways in proper repair shall be a separate charge on the parish or area, and any question which arises as to whether any such expenses are properly a separate charge on the parish or area shall be determined by the county council.

Provision as to  
highways.

(2.) Where in pursuance of an order of a county council a parish continues to maintain its own highways after the appointed day, the highway expenses shall not be deemed to be expenses of the parish council or of the parish meeting within the meaning of this Act.

**Sect. 83.** It shall be the duty of every county council to exercise all such of their powers as may be requisite for bringing this Act into full operation within their county as soon as may be after the passing thereof, and a county council may delegate their powers under this Act to a committee.

Duty of county  
council to bring  
Act into  
operation.

**Sect. 84.**—(1.) The first elections under this Act shall be held on the eighth day of November next after the passing of this Act, or such later date or dates in the year one thousand eight hundred and ninety-four as the Local Government Board may fix.

Appointed day.

(2.) The persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made under this Act in relation to their election.

(3.) Every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if it affects the parishes or parts for which the registers of parochial electors will be made, be made so far as practicable before the first day of July next after the passing of this Act, and any such division or alteration which after the appointed day may be made on application by the parish council or any parochial electors of any parish, may be made before the appointed day on application by the vestry or a like number of the ratepayers of the parish.

Provided that—

(a) If any county council having any such division or alteration under

<sup>1</sup> See page 365.

56 & 57 Vict.  
c. 73 s. 84.

consideration so direct, the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered; and

- (3.) If the county council making such division or alteration on or after the said day and on or before the last day of August one thousand eight hundred and ninety-four so direct, the clerk of the county council shall make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and in that case the said division or alteration shall be observed in the case of that election.
- (4.) Subject as in this Act mentioned, "the appointed day" shall,
  - (a.) for the purpose of elections and of parish meetings in parishes not having a parish council, be the day or respective days fixed for the first elections under this Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections; and
  - (b.) for the purpose of the powers, duties, and liabilities of councils or other bodies elected under this Act, or other matters not specifically mentioned, be the day on which the members of such councils or other bodies first elected under this Act come into office; and
  - (c.) for the purpose of powers, duties, and liabilities transferred to a council of a borough by this Act, be the first day of November next after the passing of this Act;

and the lists and registers of parochial electors shall be made out in such parts as may be necessary for the purpose of the first elections under this Act.

Provided that where an order of a county council postpones the operation of the section with respect to highways as respects their county or any part thereof the day on which such postponement ceases shall, as respects such county or part, be the appointed day, and the order of postponement shall make such provision as may be necessary for holding elections of highway boards during the interval before the appointed day.

Current rates, &c.

**Sect. 85.**—(1.) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed.

(2.) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.

(3.) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.

(4.) Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.

(5.) The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public, general, or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.

**Sect. 86.**—(1.) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require.

56 & 57 Vict.  
c. 73, s. 86.

Saving for  
existing securities  
and discharge  
of debts.

(2.) It shall be the duty of every authority whose powers, duties, and liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

**Sect. 87.** All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

Saving for  
existing byelaws.

**Sect. 88.**—(1.) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

Saving for  
pending  
contracts, &c.

(2.) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto.

**Sect. 89.** The Acts specified in the Second Schedule to this Act are hereby repealed as from the appointed day to the extent in the third column of that schedule mentioned, and so much of any Act, whether public, general, or local and personal, as is inconsistent with this Act is also hereby repealed. Provided that where any wards of an urban district have been created, or any number of members of an urban sanitary authority fixed, by or in pursuance of any local and personal Act, such wards and number of members shall continue and be alterable in like manner as if they had been fixed by an order of the county council under this or any other Act.

Repeals.

## SCHEDULES.

### FIRST SCHEDULE.

#### RULES AS TO PARISH MEETINGS, PARISH COUNCILS, AND COMMITTEES.

##### PART ONE.

##### *Rules applicable to Parish Meetings.*

Section 2.

(1.) The annual assembly of the parish meeting shall be held on the twenty-fifth day of March in each year, or within seven days before or after that day.

(2.) Not less than seven clear days before any parish meeting, public notice thereof shall be given specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the chairman of the parish council or other conveners of the meeting.

56 & 57 Vict.  
c. 73.  
First Sched.

(3.) If the business relates to the establishment or dissolution of a parish council or the grouping of a parish, or the adoption of any of the adoptive Acts, not less than fourteen days notice shall be given.

(4.) A parish meeting may discuss parish affairs and pass resolutions thereon.

(5.) Every question to be decided by a parish meeting shall, in the first instance be decided by the majority of those present and voting on the question, and the chairman shall announce his decision as to the result, and that decision shall be final, unless a poll is demanded.

(6.) A poll may be demanded at any time before the conclusion of a parish meeting.

(7.) A poll may be demanded by any one parochial elector in the case of a resolution respecting any of the following matters, namely:—

(a.) Any application, representation, or complaint to a county council or district council;

(b.) The appointment of a chairman for the year or of a committee, or the delegation of any powers or duties to a committee, or the approval of the acts of a committee;

(c.) The appointment of an overseer, the appointment or revocation of the appointment or dismissal of an assistant overseer or parish officer;

(d.) The appointment of trustees or beneficiaries of a charity;

(e.) The adoption of any of the adoptive Acts;

(f.) The formation or dissolution of a school board;

(g.) The consent or refusal of consent to any act, matter, or thing which cannot by law be done without that consent;

(h.) The incurring of any expense or liability;

(i.) The place and time for the assembly of the parish meeting;

(k.) Any other prescribed matter;

but, save as aforesaid, a poll shall not be taken unless either the chairman of the meeting assents, or the poll is demanded by parochial electors present at the meeting, not being less than five in number or one third of those present, whichever number is least.

(8.) In case of an equal division of votes at a parish meeting the chairman shall have a second or casting vote.

(9.) Where a parish meeting is held for the election of parish councillors, opportunity shall be given at the meeting for putting questions to such of the candidates as are present, and receiving explanations from them, and any candidate shall be entitled to attend the meeting and speak thereat, but, unless he is a parochial elector, not to vote.

(10.) If the chairman of the parish meeting is absent from or unwilling or unable to take the chair at any assembly of the parish meeting, the meeting may appoint a person to take the chair, and that person shall have, for the purpose of that meeting, the powers and authority of the chairman.

(11.) Any notice required to be given to or served on a parish meeting may be given to or served on the chairman of the parish meeting.

## PART TWO.

### *Rules applicable to Parish Councils.*

Section 3.

(1.) Every parish councillor shall, at the first meeting after his election, or if the council at the first meeting so permit, then at a later meeting fixed by the council, sign, in the presence of some member of the council, a declaration that he accepts the office, and if he does not sign such a declaration his office shall be void.

(2.) If any casual vacancy arises in the council, the council shall forthwith be convened for filling the vacancy.

(3.) The first business at the annual meeting shall be to elect a chairman and appoint the overseers.

(4.) The chairman may at any time convene a meeting of the parish council. If the chairman refuses to convene a meeting of the council after a requisition for



that purpose signed by two members of the council has been presented to him, any two members of the council may forthwith, on that refusal, convene a meeting. If the chairman (without so refusing) does not within seven days after such presentation, convene a meeting, any two members of the council may, on the expiration of those seven days, convene a meeting.

(5.) Three clear days at least before any meeting of a parish council notice thereof, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by or on behalf of the chairman of the parish council or persons convening the meeting, shall be given to every member of the parish council, and in case of the annual meeting notice specifying the like particulars shall be given to every member of the parish council immediately after his election.

(6.) Any notice required by law to be given to the chairman or any other member of the parish council may be left at or sent by post to the usual place of abode of such chairman or member.

(7.) No business shall be transacted at any meeting of a parish council unless at least one-third of the full number of members are present thereat, subject to this qualification, that in no case shall the quorum be less than three.

(8.) The names of the members present at any meeting of the parish council, as well as of those voting on each question on which a division is taken, shall be recorded, so as to show whether each vote given was for or against the question.

(9.) Every question at a meeting of a parish council shall be decided by a majority of votes of the members present and voting on that question.

(10.) In case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(11.) The parish council may, if they think fit, appoint one of their number to be vice-chairman, and the vice-chairman shall, in the absence or during the inability of the chairman, have the powers and authority of the chairman.

(12.) The proceedings of a parish council shall not be invalidated by any vacancy among their members, or by any defect in the election or qualification of any members thereof.

(13.) A parish council shall hold not less than four meetings in each year, of which one shall be the annual meeting and every such meeting shall be open to the public unless the council otherwise direct.

(14.) Every cheque or other order for payment of money by a parish council shall be signed by two members of the council.

(15.) Any notice required to be given to or served on a parish council may be given to or served on the clerk to the parish council.

(16.) The parish council may appear before any court or in any legal proceeding by their clerk or by any officer or member authorised generally or in respect of any special proceeding by resolution of the council, and their clerk or any member or officer shall, if so authorised, be at liberty to institute and carry on any proceeding which the parish council are authorised to institute and carry on.

### PART THREE.

#### *General.*

(1.) Minutes of the proceedings of every parish council and parish meeting shall be kept in a book provided for that purpose. Sections 2, 3.

(2.) A minute of proceedings at a meeting of a parish council, or of a committee of a parish or district council, or at a parish meeting, signed at the same or the next ensuing meeting by a person describing himself as or appearing to be chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(3.) Until the contrary is proved, every meeting in respect of the proceedings whereof a minute has been so made shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a committee, the

56 &amp; 57 Vict.

c. 73.

First Sched.

committee shall be deemed to have been duly constituted, and to have had power to deal with the matters referred to in the minutes.

(4.) Any instrument purporting to be executed under the hands or under the hands and seals of the chairman and of two other members of a parish council or of a parish meeting shall, until the contrary is proved, be deemed to have been duly so executed.

(5.) Subject to the provisions of this Act, a parish council may make, vary, and revoke standing orders for the regulation of their proceedings and business, and of the proceedings and business at parish meetings for a rural parish having a parish council.

(6.) Where there is no council for a rural parish, the parish meeting may, subject to the provisions of this Act, regulate their own proceedings and business.

## PART FOUR.

*Proceedings of Committees of Parish or District Councils.*

Section 56.

(1.) The quorum, proceedings, and place of meeting of a Committee, whether within or without the parish or district, and the area (if any) within which the committee are to exercise their authority, shall be such as may be determined by regulations of the council or councils appointing the committee.

(2.) Subject to such regulations, the quorum, proceedings, and place of meeting, whether within or without the parish or district, shall be such as the committee direct, and the chairman at any meeting of the Committee shall have a second or casting vote.

## SECOND SCHEDULE.

Second Sched.

## ENACTMENTS REPEALED.

Section 89.

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3. c. 91.	An Act to amend so much of an Act passed in the forty-third year of Her late Majesty Queen Elizabeth, as concerns the time for appointing overseers of the poor.	The whole Act, so far as it relates to rural parishes.
58 Geo. 3. c. 69.	The Vestries Act, 1818	Sections one, two, three, and four, so far as they relate to parish meetings and parish councils under this Act.
59 Geo. 3. c. 85.	The Vestries Act, 1819	The whole Act, so far as it relates to parish meetings under this Act.
1 & 2 Will. 4. c. 60.	The Vestries Act, 1831	The whole Act, so far as it relates to parish meetings under this Act, except section thirty-nine.

Session and Chapter.	Short Title.	Extent of Repeal.	
4 & 5 Will. 4. c. 76.	The Poor Law Amendment Act, 1834.	In section thirty-eight, the words “and the said guardians shall “be elected by the ratepayers “and by such owners of prop- “erty in the parishes forming “such union as shall in manner “herein-after mentioned re- “quire to have their names “entered as entitled to vote as “owners in the books of such “parishes respectively”; and from “and also fix a qualifi- “cation” to “for the ensuing “year shall be chosen”; and from “and every justice of the “peace” to “as such elected “guardians;” and from “Pro- “vided also” to the end of the section. Section thirty-nine, from “and “every justice” to the end of the section. In section forty, the words “In “all cases of the election of “guardians under this Act or.” Section forty-one. Section forty-eight from “Pro- “vided always” to the end of the section, so far as the words repealed relate to the office of parish or district councillor or guardian.	56 & 57 Vict. c. 73. Second Sched.
5 & 6 Will. 4. c. 50.	The Highway Act, 1835.	In section forty-eight, the words “with the consent in writing of “the justices of the peace at a “special sessions for the high- “ways” and the words “at and “for such price as the said “justices may deem fair and “reasonable.”	
7 Will. 4. & 1 Vict. c. 45.	The Parish Notices Act, 1837.	Section three, so far as it relates to notices by parish councils and notices of parish meetings under this Act.	
5 & 6 Vict. c. 57.	The Poor Law Amend- ment Act, 1842.	Section eight, section eleven, from “and in every case,” to the end of the section, and section fifteen.	
7 & 8 Vict. c. 101.	The Poor Law Amend- ment Act, 1844.	Sections seventeen, twenty, and twenty-four, and section sixty- one from “and wherever any such collector” to “provisions of this Act.”	

56 & 57 Vict.  
c. 73.  
Second Sched.

Session and Chapter.	Short Title.	Extent of Repeal.
13 & 14 Vict. c. 57.	The Vestries Act, 1850	Sections six, seven, eight, and nine, so far as they relate to parish meetings under this Act.
14 & 15 Vict. c. 105.	The Poor Law Amendment Act, 1851.	Section two and section three.
16 & 17 Vict. c. 65.	The Vestries Act, 1853	The whole Act, so far as it relates to parish meetings under this Act.
18 & 19 Vict. c. 120.	The Metropolis Management Act, 1855.	Section six. Sections thirteen to twenty-seven. In section thirty the words "or custom." Section fifty-four. In section two hundred and thirty-five the words "under this Act," where they secondly occur.
19 & 20 Vict. c. 112.	The Metropolis Management Amendment Act, 1856.	Sections six, seven, and eight.
23 & 24 Vict. c. 30.	The Public Improvements Act, 1860.	In section four the words "in value."
25 & 26 Vict. c. 102.	The Metropolis Management Amendment Act, 1862.	Section thirty-six; and section forty from "by rating" to "of such parish."
25 & 26 Vict. c. 103.	The Union Assessment Act, 1862.	In section two, the words "consisting partly of ex officio" and partly of elected guardians," and from "Provided always" to the end of the section. In section five the words "ex officio or elected," in both places where they occur, and the words, "as the case may be."
30 & 31 Vict. c. 6.	The Metropolitan Poor Act, 1867.	Section seventy-nine.
30 & 31 Vict. c. 106.	The Poor Law Amendment Act, 1867.	Sections four, five, six, and nine, section ten so far as it relates to elections of guardians, and section twelve.
31 & 32 Vict. c. 122.	The Poor Law Amendment Act, 1868.	Section four, from "and the powers" to the end of the section.

Session and Chapter.	Short Title.	Extent of Repeal.	
38 & 39 Vict. c. 55.	The Public Health Act, 1875.	Section eight, from “ and the number ” to the end of the section. In section nine, from “ Provided that (1) An ex officio guardian ” to “ situated in an urban district ” (being the provisoes); and the words from “ owners or occupiers of “ property situated in the rural “ district of a value sufficient to “ qualify them as elective guar- “ dians for a union,” and from “ Subject to the provisions of “ this Act ” to the end of the section. Section two hundred, except so far as it applies to boroughs; sections two hundred and one and two hundred and four, section two hundred and forty-eight, except so far as it relates to overseers, and section three hundred and twelve. So much of Schedule I. as relates to committees, and Schedule II.	56 & 57 Vict. c. 73. Second Sched.
39 & 40 Vict. c. 61.	The Divided Parishes and Poor Law Amendment Act, 1876.	Section six, from “ The meeting of inhabitants ” to the end of the section, so far as it relates to rural parishes. Section eight to “ no alteration,” except as to cases where a parish is dealt with by order of the Local Government Board.	
39 & 40 Vict. c. 79.	The Elementary Education Act, 1876.	In section seven, the words “ so “ however that in the case of a “ committee appointed by “ guardians one-third at least “ shall consist of ex officio “ guardians, if there are any “ and sufficient ex officio “ guardians.”	
47 & 48 Vict. c. 70.	The Municipal Elections (Corrupt and Illegal Practices) Act, 1884.	Section thirty-six, from “ (h.) The Local Government Board ” to “ validity of any vote.”	
48 & 49 Vict. c. 53.	The Public Health (Members and Officers) Act, 1885.	Sections three and four.	
55 & 56 Vict. c. 53.	The Public Libraries Act, 1892.	Sub-section three of section one. The First Schedule so far as it applies to rural parishes.	

*Appendix B.*

## ENACTMENTS INCORPORATED

WITH OR REFERRED TO IN THE

Local Government Act, 1894.

## THE RAILWAY CLAUSES ACT, 1845.

[8 VICT. CH. 20.]

\* \* \* \* \*

*Working of Mines.*

Company not  
to be entitled  
to minerals.

**Sect. 77.** The company shall not be entitled to any mines of coal, ironstone, slate, or other minerals under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the works, unless the same shall have been expressly purchased; and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

Mines lying near  
the railway not  
to be worked  
if the company  
willing to  
purchase them.

**Sect. 78.** If the owner, lessee, or occupier of any mines or minerals, lying under the railway, or any of the works connected therewith, or within the prescribed distance, or, where no distance shall be prescribed, forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give to the company notice in writing of his intention so to do thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the company to cause such mines to be inspected by any person appointed by them for the purpose; and if it appear to the company that the working of such mines or minerals is likely to damage the works of the railway, and if the company be willing to make compensation for such mines or any part thereof to such owner, lessee, or occupier thereof, then he shall not work or get the same; and if the company, and such owner, lessee, or occupier, do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation.

If company  
unwilling to  
purchase, owner  
may work the  
mines.

**Sect. 79.** If before the expiration of such thirty days the company do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines or any part thereof for which the company shall not have agreed to pay compensation, so that the same be done in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the district where the same shall be situate; and if any damage or obstruction be occasioned to the railway or works by improper working of such mines, the same shall be forthwith repaired or removed, as the case may require, and such damage made good, by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or, if the company shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the company to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts.

Mining com-  
munications

**Sect. 80.** If the working of any such mines under the railway or works, or within the above-mentioned distance therefrom, be prevented as aforesaid by reason of apprehended injury to the railway, it shall be lawful for the respective owners, lessees, and occupiers of such mines, and whose mines shall extend so as to lie on both sides of the railway, to cut and make such and so many airways,

headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work their said mines, but no such airway, headway, gateway, or water level shall be of greater dimensions or section than the prescribed dimensions and sections, and where no dimensions shall be described not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the railway or works, or so as to injure the same, or to impede the passage thereon.

8 Vict. c. 20,  
s. 80.  
—

**Sect. 81.** The company shall from time to time pay to the owner, lessee, or occupier of any such mines extending so as to lie on both sides of the railway all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands lying over such mines by the railway, or of the continuous working of such mines being interrupted as aforesaid, or by reason of the same being worked in such manner, and under such restrictions as not to prejudice or injure the railway, and for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway; and if any dispute or question shall arise between the company and such owner, lessee, or occupier as aforesaid, touching the amount of such losses or expenses, the same shall be settled by arbitration.

Company to  
make compensation  
for injury done to  
mines;

**Sect. 82.** If any loss or damage be sustained by the owner or occupier of the lands lying over any such mines the working whereof shall have been so prevented as aforesaid (and not being the owner, lessee, or occupier of such mines), by reason of the making of any such airway or other work as aforesaid, which or any like work would not have been necessary to be made but for the working of such mines having been so prevented as aforesaid, the company shall make full compensation to such owner or occupier of the surface lands for the loss or damage so sustained by him.

and also for  
any airway or  
other work made  
necessary by  
the railway.

**Sect. 83.** For better ascertaining whether any such mines are being worked or have been worked so as to damage the railway or works, it shall be lawful for the company, after giving twenty-four hours notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked or about so to be.

Power to  
company to  
enter and inspect  
the working  
of mines.

**Sect. 84.** If any such owner, lessee, or occupier of any such mine shall refuse to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall for every such refusal forfeit to the company a sum not exceeding twenty pounds.

Penalty for  
refusal to  
inspect.

**Sect. 85.** If it appear that any such mines have been worked contrary to the provisions of this or the special Act, the company may, if they think fit, give notice to the owner, lessee, or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the railway, and preventing injury thereto; and if after such notice any such owner, lessee, or occupier do not forthwith proceed to construct the works necessary for making safe the railway, the company may themselves construct such works, and recover the expense thereof from such owner, lessee, or occupier by action in any of the superior courts.

If mines  
improperly  
worked, the  
company may  
require means  
to be adopted  
for the safety of  
the railway.

\* \* \* \* \*

## THE POOR RATE ASSESSMENT AND COLLECTION ACT, 1869.

[32 &amp; 33 VICT. CH. 41.]

32 & 33 Vict.  
C. 41.

Owners may agree to pay the rate, and be allowed a commission.

**Sect. 3.** In case the rateable value of any hereditament does not exceed twenty pounds, if the hereditament is situate in the metropolis, or thirteen pounds if situate in any parish wholly or partly within the borough of Liverpool, or ten pounds if situate in any parish wholly or partly within the city of Manchester or the borough of Birmingham, or eight pounds if situate elsewhere, and the owner of such hereditament is willing to enter into an agreement in writing with the overseers to become liable to them for the poor rates assessed in respect of such hereditament, for any term not being less than one year from the date of such agreement, and to pay the poor rates whether the hereditament is occupied or not, the overseers may, subject nevertheless to the control of the vestry, agree with the owner to receive the rates from him, and to allow to him a commission not exceeding twenty-five per cent. on the amount thereof.

Vestries may order the owner to be rated instead of the occupier.

**Sect. 4.** The vestry of any parish may from time to time order that the owners of all rateable hereditaments to which section three of this Act extends, situate within such parish, shall be rated to the poor rate in respect of such rateable hereditaments, instead of the occupiers, on all rates made after the date of such order; and thereupon and so long as such order shall be in force the following enactments shall have effect:

1. The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate;
2. If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated;
3. The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect:

Provided that this clause shall not be applicable to any rateable hereditament in which a dwelling house shall not be included.

35 & 36 Vict.  
C. 33.

## THE BALLOT ACT, 1872.

[35 &amp; 36 VICT. CH. 33.] \*

*An Act to amend the Law relating to Procedure at Parliamentary and Municipal Elections.*

[18th July, 1872.]

WHEREAS it is expedient to amend the law relating to procedure at parliamentary and municipal elections:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice

\* The provisions of this Act which are reprinted here are those provisions which are unreppealed and which apply to municipal elections in England and Wales.



and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

35 & 36 Vict.  
c. 33.

## PART I.

### PARLIAMENTARY ELECTIONS.

#### *Procedure at Elections.*

**Sect. 1.** A candidate for election to serve in Parliament for a county or borough shall be nominated in writing. The writing shall be subscribed by two registered electors of such county or borough as proposer and seconder, and by eight other registered electors of the same county or borough as assenting to the nomination, and shall be delivered during the time appointed for the election to the returning officer by the candidate himself, or his proposer or seconder.

Nomination of candidates for parliamentary elections.

If at the expiration of one hour after the time appointed for the election no more candidates stand nominated than there are vacancies to be filled up, the returning officer shall forthwith declare the candidates who may stand nominated to be elected, and return their names to the Clerk of the Crown in Chancery; but if at the expiration of such hour more candidates stand nominated than there are vacancies to be filled up, the returning officer shall adjourn the election and shall take a poll in manner in this Act mentioned.

A candidate may, during the time appointed for the election, but not afterwards, withdraw from his candidature by giving a notice to that effect, signed by him, to the returning officer: Provided, that the proposer of a candidate nominated in his absence out of the United Kingdom may withdraw such candidate by a written notice signed by him and delivered to the returning officer, together with a written declaration of such absence of the candidate.

If after the adjournment of an election by the returning officer for the purpose of taking a poll one of the candidates nominated shall die before the poll has commenced, the returning officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and all the proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received by the returning officer on the day on which proof was given to him of such death; provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

**Sect. 2.** In the case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

Poll at elections.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority

35 & 36 Vict.  
c. 33, s. 2.

of votes have been given, and return their names to the Clerk of the Crown in Chancery. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Where an equality of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector of such county or borough, may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer.

### *Offences at Elections.*

#### **Sect. 3.** Every person who,—

- (1.) Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged ; or
- (2.) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or
- (3.) Without due authority supplies any ballot paper to any person ; or
- (4.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in ; or
- (5.) Fraudulently takes out of the polling station any ballot paper ; or
- (6.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Infringement of  
secrecy.

**Sect. 4.** Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot

paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

35 & 36 Vict.  
c. 33, s. 4.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months with or without hard labour.

\* \* \* \* \*

**Sect. 6.** The returning officer at a parliamentary election may use, free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expenses incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

Use of school  
and public room  
for poll.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

\* \* \* \* \*

### *Duties of Returning and Election Officers.*

**Sect. 8.** Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Act.

General powers  
and duties of  
returning officer.

All expenses properly incurred by any returning officer in carrying into effect the provisions of this Act in the case of any parliamentary election, shall be payable in the same manner as expenses incurred in the erection of polling booths at such election are by law payable.

Where the sheriff is returning officer for more than one county as defined for the purposes of parliamentary elections, he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or such deputy, exercise any powers and do any things which the returning officer is authorised or required to exercise or do in relation to such election. Every such deputy, and also any under sheriff, shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer in the provisions of this Act relating to parliamentary elections, and the enactments with which this part of this Act is to be construed as one.

**Sect. 9.** If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Keeping of order  
in station.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

35 & 36 Vict.  
c. 33, s. 10.

Powers of  
presiding officer  
and administra-  
tion of oaths, &c.

**Sect. 10.** For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a deputy returning officer; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorised by this Act to be taken before him.

Liability of  
officers for  
misconduct.

**Sect. 11.** Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

36 & 31 Vict.  
c. 102.

Section fifty of the Representation of the People Act, 1867 (which relates to the acting of any returning officer, or his partner, or clerk, as agent for a candidate), shall apply to any returning officer or officer appointed by him in pursuance of this Act, and to his partner or clerk.

### *Miscellaneous.*

Prohibition of  
disclosure of  
vote.

**Sect. 12.** No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Non-compliance  
with rules.

**Sect. 13.** No election shall be declared invalid by reason of a non-compliance with the rules contained in the First Schedule to this Act, or any mistake in the use of the forms in the Second Schedule to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act, and that such non-compliance or mistake did not affect the result of the election.

Use of municipal  
ballot boxes, &c.,  
for parliamentary  
election and  
*vice versa*.

**Sect. 14.** Where a parliamentary borough and municipal borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations and compartments provided for such parliamentary borough, or such municipal borough, may be used in any municipal or parliamentary election in such borough free of charge, and any damage other than reasonable wear and tear caused to the same shall be paid as part of the expenses of the election at which they are so used.

Construction of  
Act.

**Sect. 15.** This part of this Act shall, so far as is consistent with the tenor thereof, be construed as one with the enactments for the time being in force relating to the representation of the people, and to the registration of persons entitled to vote at the election of members to serve in Parliament, and with any enactments otherwise relating to the subject matter of this part of this Act, and terms used in this part of this Act shall have the same meaning as in the said enactments; and in construing the said enactments relating to an election or to the poll or taking the votes by poll, the mode of election and of taking the poll established by this Act shall for the purposes of the said enactments be deemed to be substituted for the mode of election or poll, or taking the votes by poll, referred to in the said enactments; and any person applying for a ballot paper under this Act shall be deemed "to tender his vote," or "to assume to vote," within the meaning of the said enactments; and any application for a ballot paper under this Act, or expressions relative thereto, shall be equivalent to "voting" in the said enactments and any expressions relative thereto; and the term "polling booth" as used in the said enactments shall be deemed to include a polling

station; and the term "proclamation" as used in the said enactments shall be deemed to include a public notice given in pursuance of this Act.

35 & 36 Vict.  
c. 33, s. 15.

\* \* \* \* \*

### PART III.

#### PERSONATION.

**Sect. 24.** The following enactments shall be made with respect to personation at parliamentary and municipal elections:

Definition and  
punishment of  
personation.

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name.

It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

The provisions of the Registration Acts, specified in the Third Schedule to this Act, shall in England and Ireland respectively apply to personation under this Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts.

**Sect. 25.** Where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

Vote to be struck  
off for bribery,  
treating, or  
undue influence.

\* \* \* \* \*

### PART IV.

#### MISCELLANEOUS.

**Sect. 28.** The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act.

Effect of  
schedules.

**Sect. 29.** In this Act—

The expression "municipal borough" means any place for the time being subject to the Municipal Corporation Acts, or any of them:

Definitions.  
"Municipal  
borough:"

The expression "Municipal Corporation Acts" means—

(a.) As regards England, the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of municipal corporations in England and Wales," and the Acts amending the same.

"Municipal  
Corporation  
Acts:"

35 & 36 Vict.  
c. 33, s. 29.

The expression “municipal election” means—

(a.) As regards England, an election of any person to serve the office of councillor, auditor, or assessor of any municipal borough, or of councillor for a ward of a municipal borough.

\* \* \* \* \*

### *Repeal.*

Short title.

**Sect. 33.** This Act may be cited as The Ballot Act, 1872, and shall continue in force till the thirty-first day of December, one thousand eight hundred and eighty, and no longer, unless Parliament shall otherwise determine; and on the said day the Acts in the fourth, fifth, and sixth schedules shall be thereupon revived; provided that such revival shall not affect any act done, any rights acquired, any liability or penalty incurred, or any proceeding pending under this Act, but such proceeding shall be carried on as if this Act had continued in force.

## SCHEDULES.

### FIRST SCHEDULE.

#### PART I.

#### RULES FOR PARLIAMENTARY ELECTIONS.

\* \* \* \* \*

#### *The Poll.*

14. The poll shall take place on such day as the returning officer may appoint, not being in the case of an election for a county or a district borough less than two nor more than six clear days, and not being in the case of an election for a borough other than a district borough more than three clear days after the day fixed for the election.

15. At every polling place the returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient, provided that in a district borough there shall be at least one polling station at each contributory place of such borough.

\* \* \* \* \*

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

\* \* \* \* \*

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same county or borough.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates, described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names; it shall be in the form set forth in the Second Schedule to this Act or as near thereto as circumstances admit, and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as herein-after mentioned that he is unable to read shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form herein-after mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall upon duly answering the questions and taking the oath permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals,—

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- (1.) Each ballot box in use at his station, unopened but with the key attached ; and
- (2.) The unused and spoilt ballot papers, placed together ; and
- (3.) The tendered ballot papers ; and
- (4.) The marked copies of the register of voters, and the counterfoils of the ballot papers ; and
- (5.) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read ;

and shall deliver such packets to the returning officer.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

### *Counting Votes.*

31. The candidates may respectively appoint agents to attend the counting of the votes.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

34. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and, taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Clerk of the Crown in Chancery the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark ;
2. Voting for more candidates than entitled to ;
3. Writing or mark by which voter could be identified ;
4. Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates, before such report is sent, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in



separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall report to the Clerk of the Crown in Chancery the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

38. Lastly, the returning officer shall forward to the Clerk of the Crown in Chancery (in manner in which the poll books are by any existing enactment required to be forwarded to such clerk, or as near thereto as circumstances admit) all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the county or borough for which such election was held; and the term poll book in any such enactment shall be construed to include any document forwarded in pursuance of this rule.

39. The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him in pursuance of this Act by a returning officer, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's Superior Courts, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the order of the House of Commons or under the order of one of Her Majesty's Superior Courts, to be granted by such court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the House or court making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. Any power given to a court by this rule may be exercised by any judge of such court at chambers.

41. No person shall, except by order of the House of Commons or any tribunal having cognizance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the House or tribunal making the order may think expedient; provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

42. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery, with the consent of the Speaker of the House of Commons, and the Clerk of the Crown shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may be sanctioned by the Treasury.

43. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to any specified election, the production by such clerk or his agent of the document ordered, in such manner as

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may be directed by such order, or by a rule of the court having power to make such order, shall be conclusive evidence that such document relates to the specified election ; and any endorsement appearing on any packet of ballot papers produced by such Clerk of the Crown or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

\* \* \* \* \*

### *General Provisions.*

45. The returning officer shall, as soon as possible, give public notice of the names of the candidates elected, and, in the case of a contested election, of the total number of votes given for each candidate, whether elected or not.

46. Where the returning officer is required or authorised by this Act to give any public notice, he shall carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.

47. The returning officer may, if he think fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. In the case of a contested election for any county or borough, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his if appointed might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Act, attend.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll ; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent by a candidate for the purposes of attending at the polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer ; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

56. In reckoning time for the purposes of this Act, Sunday, Christmas day, Good Friday, and any day set apart for a public fast or public thanksgiving, shall be excluded; and where anything is required by this Act to be done on any day which falls on the above-mentioned days such thing may be done on the next day, unless it is one of the days excluded as above-mentioned.

57. In this Act—

\* \* \* \* \*

The expression “agents of the candidates,” used in relation to a polling station, means agents appointed in pursuance of section eighty-five of the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen.

\* \* \* \* \*

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## PART II.

### RULES FOR MUNICIPAL ELECTIONS.

64. In the application of the provisions of this schedule to municipal elections the following modifications shall be made:—

(a.) The expression “register of voters” means the burgess roll of the burgesses of the borough, or, in the case of an election for the ward of a borough, the ward list; and the mayor shall provide true copies of such register for each polling station;

(b.) All ballot papers and other documents which, in the case of a parliamentary election, are forwarded to the Clerk of the Crown in Chancery shall be delivered to the town clerk of the municipal borough in which the election is held, and shall be kept by him among the records of the borough; and the provisions of part one of this schedule with respect to the inspection, production, and destruction of such ballot papers and documents, and to the copies of such documents, shall apply respectively to the ballot papers and documents so in the custody of the town clerk, with these modifications; namely,

(a.) An order of the county court having jurisdiction in the borough, or any part thereof, or of any tribunal in which a municipal election is questioned shall be substituted for an order of the House of Commons, or of one of Her Majesty's Superior Courts; but an appeal from such county court may be had in like manner as in other cases in such county court;

(b.) The regulations for the inspection of documents and the fees for the supply of copies of documents of which copies are directed to be supplied, shall be prescribed by the council of the borough with the consent of one of Her Majesty's Principal Secretaries of State; and, subject as aforesaid, the town clerk, in respect of the custody and destruction of the ballot papers and other documents coming into his possession in pursuance of this Act, shall be subject to the directions of the council of the borough;

(c.) Nothing in this schedule with respect to the day of the poll shall apply to a municipal election.

## SECOND SCHEDULE.

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*Note.*—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

*Form of Nomination Paper in Parliamentary Elections.*

We, the undersigned *A.B.* of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_,  
of \_\_\_\_\_ and *C.D.* of \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_,  
being electors for the \_\_\_\_\_ of \_\_\_\_\_, do hereby  
nominate the following person as a proper person to serve as member for the  
said \_\_\_\_\_ in Parliament :

Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.
BROWN	JOHN ... ..	52, George St., Bristol.	Merchant.
JONES	<i>or</i> WILLIAM DAVID ...	High Elms, Wilts. ...	Esquire.
MERTON	<i>or</i> HON. GEORGE TRAVIS, commonly called Vis- count.	Swanworth, Berks. ...	Viscount.
SMITH	<i>or</i> HENRY SYDNEY ...	72, High St., Bath ...	Attorney.

(Signed) *A.B.*  
*C.D.*

We, the undersigned, being registered electors of the \_\_\_\_\_,  
do hereby assent to the nomination of the above-mentioned *John Brown* as a  
proper person to serve as member for the said \_\_\_\_\_ in Parliament.

(Signed) *E.F.* of \_\_\_\_\_  
*G.H.* of \_\_\_\_\_  
*I.J.* of \_\_\_\_\_  
*K.L.* of \_\_\_\_\_  
*M.N.* of \_\_\_\_\_  
*O.P.* of \_\_\_\_\_  
*Q.R.* of \_\_\_\_\_  
*S.T.* of \_\_\_\_\_

*Note.*—Where a candidate is an Irish peer, or is commonly known by some title, he may be described by his title as if it were his surname.

*Form of Nomination Paper in Municipal Election.*

*Note.*—The form of nomination paper in a municipal election shall as nearly as circumstances admit be the same as in the case of a parliamentary election.

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## Form of Front of Ballot Paper.

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Counterfoil  
No.NOTE:  
The counter-  
foil is to have a  
number to corre-  
spond with that  
on the back of the  
Ballot Paper.

1	<b>BROWN</b> (John Brown, of 52, George St., Bristol, merchant.)	
2	<b>JONES</b> (William David Jones, of High Elms, Wilts., Esq.)	
3	<b>MERTON</b> (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Berks.)	
4	<b>SMITH</b> (Henry Sydney Smith, of 72, High St., Bath, attorney.)	

## Form of Back of Ballot Paper.

No.

Election for \_\_\_\_\_ county [or borough, or ward].  
18 \_\_\_\_.

*Note.*—The number on the ballot paper is to correspond with that in the counterfoil.

*Directions as to printing Ballot Paper.*

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, addresses, and descriptions, and the number on the back of the paper, shall be printed in small characters.

*Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous Characters, and placarded outside every Polling Station and in every Compartment of every Polling Station.*

The voter may vote for \_\_\_\_\_ candidate .

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

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If the voter votes for more than                      candidate , or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanour, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

*Note.*—These directions shall be illustrated by examples of the ballot paper.

### *Form of Statutory Declaration of Secrecy.*

I solemnly promise and declare, That I will not at this election for                      do anything forbidden by section four of The Ballot Act, 1872, which has been read to me.

*Note.*—The section must be read to the declarant by the person taking the declaration.

### *Form of Declaration of inability to read.*

I, *A.B.*, of                      , being numbered                      on the Register of Voters for the county [*or borough*] of                      , do hereby declare that I am unable to read.

*A.B.*,                      his mark.

day of                      .

I, the undersigned, being the Presiding officer for the                      polling station for the county [*or borough*] of                      , do hereby certify, that the above declaration, having been first read to the above-named *A.B.*, was signed by him in my presence with his mark.

Signed, *C.D.*,

Presiding officer for                      polling station.  
for the county [*or borough*] of                      .

day of                      .

## THIRD SCHEDULE.

### *Provisions of Registration Acts referred to in Part III. of the foregoing Act.*

Session and Chapter.	Title.	Part applied.
<i>As to England.</i>		
6 & 7 Vict. c. 18 ...	An Act to amend the law for the registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the elections of members to serve in Parliament for England and Wales.	Sections eighty-five to eighty-nine, both inclusive.

# THE PUBLIC HEALTH ACT, 1875.

[38 & 39 VICT. CH. 55.]

## PART II.

### AUTHORITIES FOR EXECUTION OF ACT.

#### CONSTITUTION OF DISTRICTS AND AUTHORITIES.

\* \* \* \* \*

**Sect. 9.** The area of any union which is not coincident in area with an urban district, nor wholly included in an urban district (in this section called a rural union), with the exception of those portions (if any) of the area which are included in any urban district, shall be a rural district, and the guardians of the union shall form the rural authority of such district : Provided that—

Where the number of elective guardians who are not by this section disqualified from acting and voting as members of the rural authority is less than five, the Local Government Board may from time to time by order nominate such number of persons as may be necessary to make up that number, and the persons so nominated shall be entitled to act and vote as members of the rural authority, but not further or otherwise.

\* \* \* \* \*

## PART IV.

### LOCAL GOVERNMENT PROVISIONS.

#### HIGHWAYS AND STREETS.

##### *As to Highways.*

**Sect. 144.** Every urban authority shall within their district exclusively of any other person execute the office of and be surveyor of highways, and have exercise and be subject to all the powers, authorities, duties and liabilities of surveyors of highways under the law for the time being in force, save so far as such powers, authorities or duties are or may be inconsistent with the provisions of this Act ; every urban authority shall also have exercise and be subject to all the powers, authorities, duties and liabilities which by the Highway Act, 1835, or any Act amending the same, are vested in and given to the inhabitants in vestry assembled of any parish within their district.

All ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the urban authority, or by or to such other person as they may appoint.

**Sect. 145.** The inhabitants within any urban district shall not in respect of any property situated therein be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways without such district : Provided, that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any order made thereunder, to be surveyor of highways within such place, may recover any highway rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such surveyor, as if he had not ceased to be such surveyor ; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such surveyor, and in discharging any debts legally owing by him on account of the highways within his jurisdiction ; and the surplus (if any) shall be paid by him to the treasurer of the urban authority, and carried to the fund or rate applicable to the repair of highways within their district.

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c. 55.

Description of  
rural districts  
and rural  
authorities.

Powers of surveyors of highways and of vestries under 5 & 6 Will. IV. c. 50, vested in urban authority.

Inhabitants of urban district not liable to rates for roads without district.

38 & 39 Vict.  
c. 55, s. 146.

Power of urban  
authority to  
agree as to  
making of new  
public roads.

**Sect. 146.** Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their district; they may also, with the consent of two-thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads.

Power of urban  
authority to con-  
struct or adopt  
public bridges,  
&c., over or  
under canals, &c.

**Sect. 147.** Any urban authority may agree with the proprietors of any canal, railway or tramway to adopt and maintain any existing or projected bridge, viaduct or arch within their district, over or under any such canal, railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district: or such authority may themselves agree to construct any such bridge, viaduct or arch at the expense of such proprietors; they may also, with the consent of two-thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge, viaduct or arch, or of the purchase of any adjoining land required for the foundation and support thereof, or for the approaches thereto.

Power of urban  
authority to  
enter into agree-  
ments with turn-  
pike trustees as  
to repair, &c., of  
roads.

**Sect. 148.** Any urban authority may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the surveyor of any county bridge, take on themselves the maintenance, repair, cleansing or watering of any such street or road or any part thereof, or of any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their district, and may remove any turnpike gates, toll gates or bars which may be situated within their district, and may erect other turnpike gates, toll gates, or bars in lieu thereof, on such terms as the urban authority and such trustees or person or surveyor as aforesaid may agree on:

Provided—

That where any mortgage debt is charged on the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two-thirds in value of the mortgagees; and

That where the terms arranged include any annual or other payments from such urban authority to the trustees of any such turnpike road, then the payments may be secured on any fund or rate applicable by such authority to any of the purposes of this Act in the same manner as other charges on any such fund or rate are authorised by this Act.

Any executors, administrators, guardians, trustees or committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof; and all executors, administrators, guardians, trustees and committees so consenting are hereby severally indemnified for so doing.

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## PUBLIC PLEASURE GROUNDS, &c.

Urban authority  
may provide  
places of public  
recreation.

**Sect. 164.** Any urban authority may purchase or take on lease, lay out, plant, improve and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever.

Any urban authority may make byelaws for the regulation of any such public walk or pleasure ground, and may by such byelaws provide for the removal from such public walk or pleasure ground of any person infringing any such byelaw by any officer of the urban authority or constable.

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## PART V.

38 & 39 Vict.  
c. 55, s. 178.

## GENERAL PROVISIONS.

## PURCHASE OF LANDS.

\* \* \* \* \*

**Sect. 178.** The Chancellor and Council of the Duchy of Lancaster for the time being may, if they think fit (but subject and without prejudice to the rights of any lessee, tenant or occupier), from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to Her Majesty, her heirs or successors in right of the said duchy, or any right, interest or easement in, through, over or on any such lands which for the purposes of this Act such local authority from time to time deem it expedient to purchase; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said Chancellor and Council may grant and assure to the said authority, under the seal of the said duchy, in the name of Her Majesty, her heirs or successors, the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

Provision for  
lands belonging  
to the Duchy of  
Lancaster.

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## BYELAWS.

**Sect. 183.** Any local authority may, by any byelaws made by them under this Act, impose on offenders against the same, such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority; but all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Power to impose  
penalties on  
breach of bye-  
laws.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any byelaws made in pursuance of such provisions of any greater penalty than the penalties in this section specified.

**Sect. 184.** Byelaws made by a local authority under this Act shall not take effect unless and until they have been submitted to and confirmed by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper; nor shall any such byelaws be confirmed—

Confirmation of  
byelaws.

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the district to which such byelaws relate, one month at least before the making of such application; and

Unless for one month at least before any such application a copy of the proposed byelaws has been kept at the office of the local authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward.

The clerk of the local authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed byelaws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A byelaw required to be confirmed by the Local Government Board shall not require confirmation allowance or approval by any other authority.

**Sect. 185.** All byelaws made by a local authority under this Act, or for purposes the same as or similar to those of this Act under any local Act, shall be printed and hung up in the office of such authority; and a copy thereof shall be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same; a copy of any byelaws made by a rural authority shall also be transmitted to the overseers of every parish to which such byelaws relate, to

Byelaws to be  
printed, &c.

33 & 39 Vict.  
c. 55, s. 185.

be deposited with the public documents of the parish, and to be open to the inspection of any ratepayer of the parish at all reasonable hours.

Evidence of bye-laws.

**Sect. 186.** A copy of any byelaws made under this Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making, confirmation and existence of such byelaws without further or other proof.

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## OFFICERS AND CONDUCT OF BUSINESS OF LOCAL AUTHORITIES.

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### *Mode of Conducting Business.*

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Meetings, &c.  
of urban  
authority not  
being the  
council of a  
borough.

**Sect. 199.** Every urban authority (not being the council of a borough) shall hold an annual meeting, and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in schedule I. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules.

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## PART VI.

### RATING AND BORROWING POWERS, &c.

#### EXPENSES OF URBAN AUTHORITY AND URBAN RATES.

Mode of defray-  
ing expenses of  
urban authority.

**Sect. 207.** All expenses incurred or payable by an urban authority in the execution of this Act, and not otherwise provided for, shall be charged on and defrayed out of the district fund and general district rate leviable by them under this Act, subject to the following exceptions; (namely,)

That if in any district the expenses incurred by an urban authority (being the council of a borough) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of the borough fund or borough rate, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of the borough fund or borough rate; and

That if in any district the expenses incurred by an urban authority (being improvement commissioners) in the execution of the Sanitary Acts were at the time of the passing of this Act payable out of any rate in the nature of a general district rate leviable by them as such commissioners throughout the whole of their district, then the expenses incurred by that authority in the execution of this Act shall be charged on and defrayed out of such rate; and for the purposes of this section the council of the borough of Folkestone shall be deemed to be improvement commissioners; and

That where at the time of the passing of this Act the expenses incurred by an urban authority in the execution of certain purposes of the Sanitary Acts were payable out of the borough fund and borough rate, and the expenses incurred by such authority in the execution of the other purposes of the said Acts were payable out of a rate or rates leviable by that authority throughout the whole of their district for paving, sewerage or other sanitary purposes, then the expenses incurred by that authority in the execution of the same or similar purposes respectively under this Act shall respectively be charged on and defrayed out of the borough fund and borough rate, and out of the rate or rates leviable as aforesaid.

**Sect. 208.** Where at the time of the passing of this Act the expenses incurred by an urban authority for sanitary purposes are payable otherwise than in the manner provided by the Local Government Acts, the Local Government Board may, on the application of such authority, or of any ten persons rated to the relief of the poor within the district, declare by provisional order that the expenses of such authority incurred in the execution of this Act shall be defrayed out of a district fund and general district rate to be levied by them under this Act subject to the provisions of this Act with respect to the mode of defraying in certain cases the expenses of the repair of highways.

38 & 39 Vict.  
c. 55, s. 208

Power in certain cases by provisional order to alter mode.

### *General District Rate.*

**Sect. 209.** In the district of every urban authority whose expenses under this Act are directed to be defrayed out of the district fund and general district rate there shall be continued or established a fund called the district fund : a separate account called "the district fund account" of all moneys carried under this Act to the account of that fund shall be kept by the treasurer of the urban authority ; and such moneys shall be applied by the urban authority in defraying such of the expenses chargeable thereon under this Act as they may think proper.

District fund account.

**Sect. 210.** For the purpose of defraying any expenses chargeable on the district fund which that fund is insufficient to meet, the urban authority shall from time to time, as occasion may require, make by writing under their common seal, and levy in addition to any other rate leviable by them under this Act, a rate or rates to be called "general district rates."

Making general district rate.

Any such rate may be made and levied either prospectively in order to raise money for the payment of future charges and expenses, or retrospectively in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate : in calculating the period of six months during which the rate may be made retrospectively, the time during which any appeal or other proceeding relating to such rate is pending shall be excluded.

Public notice of intention to make any such rate, and of the time when it is intended to make the same, and of the place where a statement of the proposed rate is deposited for inspection, shall be given by the urban authority in the week immediately before the day on which the rate is intended to be made, and at least seven days previously thereto ; but in case of proceedings to levy or recover any rate it shall not be necessary to prove that such notice was given.

**Sect. 211.** With respect to the assessment and levying of general district rates under this Act the following provisions shall have effect ; (namely,)

Assessment, &c., of general district rate.

(1.) General district rates shall be made and levied on the occupier of all kinds of property for the time being by law assessable to any rate for the relief of the poor, and shall be assessed on the full net annual value of such property, ascertained by the valuation list for the time being in force, or, if there is none, by the rate for the relief of the poor made next before the making of the assessment under this Act, subject to the following exceptions, regulations and conditions ; (namely,)

(a) The owner, instead of the occupier, may at the option of the urban authority be rated in cases—

Where the rateable value of any premises liable to assessment under this Act does not exceed the sum of ten pounds ; or

Where any premises so liable are let to weekly or monthly tenants ; or

Where any premises so liable are let in separate apartments, or where the rents become payable or are collected at any shorter period than quarterly ;

Provided that in cases where the owner is rated instead of the occupier he shall be assessed on such reduced estimate as the urban authority deem reasonable of the net annual value, not being less than two-thirds nor more than four-fifths of the net annual value ; and where such reduced estimate is

38 & 39 Vict.  
c. 55, s. 211.

in respect of tenements whether occupied or unoccupied, then such assessment may be made on one-half of the amount at which such tenements would be liable to be rated if the same were occupied and the rate were levied on the occupiers :

- (b.) The owner of any tithes, or of any title commutation rentcharge, or the occupier of any land used as arable meadow or pasture ground only, or as woodlands, market gardens, or nursery grounds, and the occupier of any land covered with water, or used only as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall be assessed in respect of the same in the proportion of one fourth part only of such net annual value thereof :
- (c.) If within any urban district or part of such district any kind of property is exempted from rating by any local Act in respect of all or any of the purposes for which general district rates may be made under this Act, the same kind of property shall, in respect of the same purposes, and to the same extent within the parts to which the exemption applies (but not further or otherwise), be exempt from assessment to any general district rates under this Act unless the Local Government Board by provisional order otherwise direct.
- (2.) If at the time of making any general district rate any premises in respect of which the rate may be made are unoccupied, such premises shall be included in the rate, but the rate shall not be charged on any person in respect of the same while they continue to be unoccupied ; and if any such premises are afterwards occupied during any part of the period for which the rate was made and before the same has been fully paid, the name of the incoming tenant shall be inserted in the rate, and thereupon so much of the rate as at the commencement of his tenancy may be in proportion to the remainder of the said period shall be collected, recovered and paid in the same manner in all respects as if the premises had been occupied at the time when the rate was made :
- (3.) If any owner or occupier assessed or liable to any such rate ceases to be owner or occupier of the premises in respect whereof he is so assessed or liable, before the end of the period for which the rate was made, and before the same is fully paid off, he shall be liable to pay only such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier ; and in every such case if any person afterwards become owner or occupier of the premises during part of the said period, he shall pay such part of the rate as may be in proportion to the time during which he continues to be such owner or occupier, and the same shall be recovered from him in the same manner as if he had been originally assessed or liable :
- (4.) The urban authority may divide their district or any street therein into parts for all or any of the purposes of this Act, and from time to time abolish or alter any such divisions, and may make a separate assessment on any such part for all or any of the purposes for which the same is formed ; and every such part, so far as relates to the purposes in respect of which such separate assessment is made, shall be exempt from any other assessment under this Act : Provided that if any expenses are incurred or to be incurred in respect of two or more parts in common the same shall be apportioned between them in a fair and equitable manner.

**Sect. 212.** For the purpose of assessing general district rates any person appointed by the urban authority may inspect, take copies of or make extracts from, any valuation list or rate for the relief of the poor within the district, or any book relating to the same.

Any officer having the custody of any such rate or book who refuses to permit such inspection, or the taking of such copies or extract, shall be liable to a penalty not exceeding five pounds.

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Inspection of  
poor rate books  
for purposes of  
assessment.

*Highway Rate.*38 & 39 Vict.  
c. 55. s. 216.Costs of repairs  
of highways.

**Sect. 216.** In any urban district where the expenses under this Act of the urban authority are charged on and defrayed out of the district fund and general district rates, and no other mode of providing for repair of highways is directed by any local Act, the cost of repair of highways shall be defrayed as follows; (that is to say,)

- (1.) Where the whole of the district is rated for works of paving, water supply and sewerage, or for works for such of these purposes as are provided for in the district, the cost of repair of highways shall be defrayed out of the general district rate;
- (2.) Where parts of the district are not rated for works of paving, water supply and sewerage, or for such of these purposes as are provided for in the district, the cost of repair of highways in those parts shall be defrayed out of a highway rate to be separately assessed and levied in those parts by the urban authority as surveyor of highways, and the cost of such repair in the residue of the district shall be defrayed out of the general district rate;
- (3.) Where no public works of paving, water supply and sewerage are established in the district, the cost of repair of highways in the district shall be defrayed out of a highway rate, to be levied throughout the whole district by the urban authority as surveyor of highways;

Provided that where part of a parish is included within an urban district, and the excluded part was, before the constitution of that district, liable to contribute to the highway rates for such parish, such excluded parts shall (unless in the case of an urban district constituted before the passing of this Act a resolution deciding that such excluded part should be formed into a separate highway district has been passed in pursuance of the Local Government Act, 1858, Amendment Act, 1861), or unless such excluded part has been included in a highway district under the Highway Acts, for all purposes connected with the repairs of highways and the payment of highway rates, be considered to be and be treated as forming part of such district.

Provided also, that in the case of an urban district constituted after the passing of this Act a meeting of owners and ratepayers of the excluded part (to be convened and conducted in the manner provided by Schedule III. to this Act) may decide that such excluded part shall be a highway parish, and thereupon the excluded part shall for all purposes connected with highways, surveyors of highways, and highway rates, be considered and treated as a parish maintaining its own highways; but the requisition for holding any such meeting shall be made within six months after the constitution of the urban district.

The court of quarter sessions may by order direct that for any such excluded part a waywarden or waywardens shall be elected, and may invest any waywarden elected in pursuance of any such order with all or any of the powers of waywardens under the Highway Acts.

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*General Provisions as to Urban Rates.*

**Sect. 218.** Every urban authority, before proceeding to make a general district rate or private improvement rate under this Act, shall cause an estimate to be prepared of the money required for the purposes in respect of which the rate is to be made, showing—

Estimate to be  
prepared before  
making rates.

The several sums required for each of such purposes; and

The rateable value of the property assessable; and

The amount of rate which for those purposes it is necessary to make on each pound of such value;

and the estimate so made shall forthwith, after being approved of by the urban authority, be entered in the rate book, and be kept at their office, open to public inspection during office hours thereat; but it shall not be deemed part of the rate, nor in any respect affect the validity of the same.

38 & 39 Vict.  
c. 55, s. 213.

Rates to be open  
to inspection.

**Sect. 219.** Any person interested in or assessed to any rate made under this Act may inspect the same, and any estimate made previously thereto, and may take copies of or extracts therefrom without fee or reward; any person, who, having the custody of any such estimate or rate, refuses to allow or does not permit such inspection, or such copies or extracts to be taken, shall be liable to a penalty not exceeding five pounds.

Description of  
owner or occupier  
in rates.

**Sect. 220.** Where the name of any owner or occupier liable to be rated under this Act is not known to the urban authority it shall be sufficient to assess and designate him in the rate as "the owner" or "the occupier" of the premises in respect of which the assessment is made, without further description.

Rates may be  
amended.

**Sect. 221.** An urban authority may from time to time amend any rate made in pursuance of this Act, by inserting therein the name of any person claiming and entitled to have his name inserted, or by inserting the name of any person who ought to have been assessed, or by striking out the name of any person who ought not to have been assessed, or by raising or reducing the sum at which any person has been assessed, if it appears to the urban authority that he has been under-rated or over-rated, or by making any other alteration which will make the rate conformable to the provisions of this Act; and no such amendment shall be held to avoid the rate.

Provided, that any person who may feel himself aggrieved by any such amendment shall have the same right of appeal therefrom as he would have had if the matter of amendment had appeared on the rate originally made, and with respect to him an amended rate shall be considered to have been made at the time when he first received notice of the amendment; and an amended rate shall not be payable by any person the amount of whose rate is increased by the amendment, or whose name is thereby newly inserted until seven days after such notice has been given to him.

Publication and  
collection of  
rates.

**Sect. 222.** All rates made or collected under this Act shall be published in the same manner as poor rates, and shall commence and be payable at such time or times, and shall be made in such manner and form, and be collected by such persons, and either together or separately, or with any other rate or tax, as the urban authority may from time to time appoint: Provided that no publication shall be required of any private improvement rate.

Evidence of  
rates.

**Sect. 223.** The production of the books purporting to contain any rate or assessment made under this Act shall, without any other evidence whatever, be received as *prima facie* evidence of the making and validity of the rates mentioned therein.

Power to make  
deduction from  
rate in certain  
cases.

**Sect. 224.** Where it appears to an urban authority that any premises were sufficiently drained before the construction of any new sewer laid down by them, they may deduct from the amount of rates otherwise chargeable in respect of such premises such a sum for such time as they may under all the circumstances of the case deem just.

Power to reduce  
or remit rates.

**Sect. 225.** An urban authority may reduce or remit the payment of any rate on account of the poverty of any person liable to the payment thereof.

Saving for exist-  
ing agreements.

**Sect. 226.** Nothing in this part of this Act shall alter or affect any lease, contract or agreement made or entered into between the landlord and tenant of any premises.

Limit in local  
Act not to apply  
to rate for pur-  
poses of this Act.

**Sect. 227.** Any limit imposed on or in respect of any rate by any local Act of Parliament shall not apply to any rate required to be levied for the purpose of defraying any expenses incurred by an urban authority in the execution of this Act.

Quota of rates to  
be paid by the  
Universities, &c.

**Sect. 228.** Nothing in this Act shall be deemed to alter or interfere with any liability existing at the time of the passing of this Act of the Universities of Oxford

and Cambridge respectively to contribute towards the expenses of paving and pitching, repairing, lighting and cleansing under the powers of any local Act under which the Oxford and Cambridge commissioners respectively act, the several streets and places within the jurisdiction of such commissioners respectively.

If any difference arises between either of the said universities and the urban authority with respect to the proportion and manner in which the university shall contribute towards any expenses under this Act, and to which the university is not liable under any such local Act, the same shall be settled by arbitration in manner provided by this Act.

All rates, contributions, and sums of money which may become payable under this Act by the said universities respectively, and their respective halls and colleges, may be recovered from such universities, halls and colleges in the same manner in all respects as rates, contributions and sums of money may now be recovered from them by virtue of any such local Act.

### EXPENSES OF RURAL AUTHORITY

**Sect. 229.** The expenses incurred by a rural authority in the execution of this Act shall be divided into general expenses and special expenses. Expenses of rural authority. 38 & 39 Vict. c. 55, s. 228.

General expenses (other than those chargeable on owners and occupiers under this Act) shall be the expenses of the establishment and officers of the rural authority, the expenses in relation to disinfection, the providing conveyance for infected persons, and all other expenses not determined by this Act or by order of the Local Government Board to be special expenses.

Special expenses shall be the expenses of the construction, maintenance and cleansing of sewers in any contributory place within the district, the providing a supply of water to any such place, and maintaining any necessary works for that purpose, if and so far as the expenses of such supply and works are not defrayed out of water rates or rents under this Act, the charges and expenses arising out of or incidental to the possession of property transferred to the rural authority in trust for any contributory place, and all other expenses incurred or payable by the rural authority in or in respect of any contributory place within the district, and determined by order of the Local Government Board to be special expenses.

Where the rural authority make any sewers or provide any water supply or execute any other work under this Act for the common benefit of any two or more contributory places within their district, they may apportion the expense of constructing any such work, and of maintaining the same, in such proportions as they think just, between such contributory places, and any expense so apportioned to any such contributory place shall be deemed to be special expenses legally incurred in respect of such contributory place.

The overseers of any contributory place, if aggrieved by any such apportionment, may, within twenty-one days after notice has been given to them of the apportionment, send or deliver a memorial to the Local Government Board stating their grounds of complaint, and the said Board may make such order in the matter as to it may seem equitable, and the order so made shall be binding and conclusive on all parties concerned.

General expenses shall be payable out of a common fund to be raised out of the poor rate of the parishes in the district according to the rateable value of each contributory place in manner in this Act mentioned.

Special expenses shall be a separate charge on each contributory place.

The following areas situated in a rural district shall be contributory places for the purposes of this Act; that is to say,

- (1.) Every parish not having any part of its area within the limits of a special drainage district formed in pursuance of the Sanitary Acts or of this Act, or of an urban district; and
- (2.) Every such special drainage district as aforesaid; and
- (3.) In the case of a parish wholly situated in a rural district, and part of which forms or is part of any such special drainage district as aforesaid, such

38 & 39 Vict.  
c. 55, s. 229.

portion of that parish as is not comprised within such special drainage district ; and

- (4.) In the case of a parish a part of which is situated within an urban district, such portion of that parish as is not comprised within such urban district, or within any such special drainage district as aforesaid.

Mode of raising  
contributions in  
rural district.

**Sect. 230.** For the purpose of obtaining payment from the several contributory places within their district of the sums to be contributed by them the rural authority shall issue their precept to the overseers of each such contributory place requiring such overseers to pay, within a time limited by the precept, the amount specified in such precept to the rural authority or to some person appointed by them, care being taken to issue separate precepts in respect of contributions for general expenses and special expenses, or to make such expenses respectively separate items in any precept including both classes of expenses.

Where a contributory place is part of a parish as defined by this Act, the overseers of such parish shall for the purposes of this Act be deemed to be the overseers of such contributory place, and where any part of a contributory place is part of a parish the overseers of such parish shall for the like purposes be deemed to be the overseers of such part of such contributory place.

The overseers shall comply with the requisitions of such precept by paying the contribution required in respect of general expenses out of the poor rate of their respective parishes, and with respect to special expenses by raising the contribution required by the levy (in the case of an entire parish on the whole of such parish, and in the case of a contributory place or part of a contributory place forming part of a parish, by the levy on such place, or such part thereof, exclusive of the rest of the parish) of a separate rate in the same manner as if it were a rate for the relief of the poor, with this exception ; (namely,)

That the owner of any tithes, or of any tithe commutation rentcharge, or the occupier of any land used as arable, meadow, or pasture ground only, or as woodlands, market gardens or nursery grounds, and the occupier of any land covered with water, or used as a canal or towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance, shall, where a special assessment is made for the purpose of such rate, be assessed in respect of one-fourth part only of the rateable value thereof, or where no special assessment is made, shall pay in respect of the said property one-fourth part only of the rate in the pound payable in respect of houses and other property :

Provided that where the amount required by any precept or precepts from a contributory place in respect of special expenses is less than ten pounds, or is so small that a rate less than one penny in the pound would be required to raise the same, the overseers shall not assess and levy any special rate for the same, but shall pay the amount as if it formed part of the contribution required from them in respect of general expenses.

A separate rate under this section shall, as respects the powers of the overseers in relation to making, assessing and levying such rate, and as respects the appeal against such rate, and all other incidents thereof except the purposes to which it is applicable, and such exemption as aforesaid, and except the allowance of justices, which shall not be required, be subject to the same provisions as apply in law to a rate levied for the relief of the poor ; and the overseers of a parish shall have the same powers of levying such separate rate in a contributory place, or part of a contributory place, forming part of their parish, as they would have if such contributory place or such part thereof formed the whole of their parish.

Where a contribution for general expenses is required from a contributory place or part of a contributory place which is part of a parish, the overseers shall from time to time levy such increase of rate from the contributory place or such part thereof as may be sufficient to recoup the parish for the sum it has paid on account of the contributory place or such part thereof in respect of general expenses under this Act, and carry the same to the general account of the parish, and such increase of rate shall be raised in such contributory place or part of a contributory place by



an addition to the poor rate, or by a separate rate to be assessed, made, allowed, published, collected and levied in the same manner as a poor rate. The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect any separate rate made under this section, and receive out of such separate rate such remuneration for the additional duty as the overseers with the consent of the vestry may determine.

The overseers shall at the expiration of their term of office pay any surplus in their hands arising from any separate rate levied in pursuance of this Act, above the amount for which the rate was made, to the rural authority or to such person as they may appoint, to the credit of the contributory place within which or within part of which such rate was made, and such surplus shall go in reduction of the next call that may be made on such contributory place or such part thereof for the purpose of defraying the expenses incurred by the rural authority.

**Sect. 231.** If the amount required by any precept of a rural authority to be paid by the overseers of any parish is not paid in manner directed by such precept, and within the time therein specified for that purpose, the rural authority shall have the like remedy for recovery from the overseers of such amount as is not paid as guardians have for the time being for recovery from overseers of contributions of parishes, and for that purpose the precept of the rural authority requiring the payment shall be conclusive evidence of the amount thereof.

38 & 39 Vict.  
c. 55, s. 230.

Remedy for non-payment by overseers of amount required by precept of rural authority.

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### BORROWING POWERS.

**Sect. 233.** Any local authority may, with the sanction of the Local Government Board, for the purpose of defraying any costs, charges and expenses incurred or to be incurred by them in the execution of the Sanitary Acts or of this Act, or for the purpose of discharging any loans contracted under the Sanitary Acts or this Act, borrow or re-borrow, and take up at interest, any sums of money necessary for defraying any such costs, charges and expenses, or for discharging any such loans as aforesaid.

Power to borrow on credit of rates.

An urban authority may borrow or re-borrow any such sums on the credit of any fund or all or any rates or rate out of which they are authorised to defray expenses incurred by them in the execution of this Act, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund or rates or rate.

A rural authority may borrow or re-borrow any such sums, if applied or intended to be applied to general expenses of such authority, on the credit of the common fund out of which such expenses are payable, and if applied or intended to be applied to special expenses of such authority, on the credit of any rate or rates out of which such expenses are payable, and for the purpose of securing the repayment of any sums so borrowed, with interest thereon, they may mortgage to the persons by or on behalf of whom such sums are advanced any such fund, rate or rates.

**Sect. 234.** The exercise of the powers of borrowing conferred by this Act shall be subject to the following regulations: (namely,)

Regulations as to exercise of borrowing powers.

- (1.) Money shall not be borrowed except for permanent works (including under this expression any works of which the cost ought in the opinion of the Local Government Board to be spread over a term of years):
- (2.) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed:
- (3.) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local

38 & 39 Vict.  
c. 55, s. 234.

Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board :

- (4.) The money may be borrowed for such time, not exceeding sixty years, as the local authority, with the sanction of the Local Government Board, determine in each case ; and, subject as aforesaid, the local authority shall either pay off the moneys so borrowed by equal annual instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of Exchequer bills or other Government securities, such sum as will with accumulations in the way of compound interest be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned :
- (5.) A local authority may at any time apply the whole or any part of a sinking fund set apart under this Act in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund in each year and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied :
- (6.) Where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned, unless with the sanction of the Local Government Board, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Where any urban authority borrow any money for the purpose of defraying private improvement expenses, or expenses in respect of which they have determined a part only of the district to be liable, it shall be the duty of such authority, as between the ratepayers of the district, to make good, so far as they can, the money so borrowed, as occasion requires, either out of private improvement rates, or out of a rate levied in such part of the district as aforesaid.

Power to borrow  
on credit of  
sewage land and  
plant.

**Sect. 235.** Where any local authority are possessed of any land, works or other property for the purposes of disposal of sewage pursuant to this Act, they may borrow any moneys on the credit of such lands, works or other property, and may mortgage such lands, works, or other property to any person advancing such moneys, in the same manner in all respects as if they were the absolute owner, both at law and in equity, of the lands, works or other property so mortgaged. The moneys so borrowed shall be applied for purposes for which moneys may be borrowed under this Act ; but it shall not be in any way incumbent on the mortgagees to see to the application of such moneys, nor shall they be responsible for any misapplication thereof.

The powers of borrowing conferred by this section shall, where the sums borrowed do not exceed three-fourths of the purchase money of such lands (but not otherwise), be deemed to be distinct from and in addition to the general borrowing powers conferred on a local authority by this Act. Any local authority may pay out of any rates leviable by them for purposes of this Act the interest on any moneys borrowed by such authority in pursuance of this section.

Form of  
mortgage.

**Sect. 236.** Every mortgage authorised to be made under this Act shall be by deed, truly stating the date, consideration, and the time and place of payment, and shall be sealed with the common seal of the local authority, and may be made according to the form contained in Schedule IV. to this Act, or to the like effect.

Register of  
mortgages.

**Sect. 237.** There shall be kept at the office of the local authority a register of the mortgages on each rate, and within fourteen days after the date of any mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto, as stated in the deed. Every such register shall be open to public inspection during office hours at the

said office, without fee or reward ; and any clerk or other person having the custody of the same, refusing to allow such inspection, shall be liable to a penalty not exceeding five pounds.

38 & 39 Vict.  
c. 55, s. 237.

**Sect. 238.** Any mortgagee or other person entitled to any mortgage under this Act may transfer his estate and interest therein to any other person by deed duly stamped, truly stating its date and the consideration for the transfer ; and such transfers may be according to the form contained in Schedule IV. to this Act, or to the like effect.

Transfer of  
mortgages.

There shall be kept at the office of the local authority a register of the transfers of mortgage charged on each rate, and within thirty days after the date of such deed of transfer, if executed within the United Kingdom, or within thirty days after its arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the clerk of the local authority, who shall, on payment of a sum not exceeding five shillings, cause an entry to be made in such register of its date, and of the names and description of the parties thereto, as stated in the transfer ; and until such entry is made the local authority shall not be in any manner responsible to the transferee.

On the registration of any transfer the transferee, his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby : and any transferee may in like manner transfer his estate and interest in any such mortgage ; and no person except the last transferee, his executors or administrators shall be entitled to release or discharge any such mortgage or any money secured thereby.

If the clerk of the local authority wilfully neglects or refuses to make in the register any entry by this section required to be made, he shall be liable to a penalty not exceeding twenty pounds.

**Sect. 239.** If at the expiration of six months from the time when any principal money or interest has become due on any mortgage of rates made under this Act, and after demand in writing, the same is not paid, the mortgagee or other person entitled thereto may, without prejudice to any other mode of recovery, apply for the appointment of a receiver to a court of summary jurisdiction ; and such court may, after hearing the parties, appoint in writing under their hands and seals some person to collect and receive the whole or a competent part of the rates liable to the payment of the principal or interest, in respect of which the application is made, until such principal or interest, or both, as the case may be, together with the costs of the application and of collection, are fully paid.

Receiver may be  
appointed in  
certain cases.

On such appointment being made all such rates, or such competent part thereof as aforesaid, shall be paid to the person appointed, and when so paid shall be so much money received by or to the use of the mortgagee or mortgagees of such rates, and shall be rateably apportioned between them :

Provided that no such application shall be entertained unless the sum or sums due and owing to the applicant amount to one thousand pounds, or unless a joint application is made by two or more mortgagees or other persons to whom there may be due, after such lapse of time and demand as last aforesaid, moneys collectively amounting to that sum.

\* \* \* \* \*

## AUDIT.

### *Audit of Accounts of Local Authorities.*

**Sect. 247.** <sup>1</sup> Where an urban authority are not the council of a borough the following regulations with respect to audit shall be observed ; (namely),  
(3.) Before each audit such authority shall, after receiving from the auditor the

Audit where  
urban authority  
are not a town  
council.

<sup>1</sup> Only so much of the unrepealed part of this section as relates to audits under the Local Government Act, 1894, is reprinted here.

38 & 39 Vict  
c. 55, s. 247.

requisite appointment, give at least fourteen days' notice of the time and place at which the same will be made, and of the deposit of accounts required by this section, by advertisement in some one or more of the local newspapers circulated in the district ; and the production of the newspaper containing such notice shall be deemed to be sufficient proof of such notice on any proceeding whatsoever :

- (4.) A copy of the accounts duly made up and balanced, together with all rate books, account books, deeds, contracts, accounts, vouchers and receipts mentioned or referred to in such accounts, shall be deposited in the office of such authority, and be open, during office hours thereat, to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same, without fee or reward : and any officer of such authority duly appointed in that behalf neglecting to make up such accounts and books, or altering such accounts and books, or allowing them to be altered when so made up, or refusing to allow inspection thereof, shall be liable to a penalty not exceeding five pounds :
- (5.) For the purpose of any audit under this Act, every auditor may, by summons in writing, require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same ; and if any such person neglects or refuses so to do, or to produce any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers, or to make or sign such declaration, he shall incur for every neglect or refusal a penalty not exceeding forty shillings ; and if he falsely or corruptly makes or signs any such declaration, knowing the same to be untrue in any material particular, he shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury :
- (6.) Any ratepayer or owner of property in the district may be present at the audit, and may make any objection to such accounts before the auditor ; and such ratepayers and owners shall have the same right of appeal against allowances by an auditor as they have by law against disallowances :
- (7.) Any auditor acting in pursuance of this section shall disallow every item of account contrary to law, and surcharge the same on the person making or authorising the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person, or of any sum which ought to have been but is not brought into account by that person, and shall in every such case certify the amount due from such person, and on application by any party aggrieved shall state in writing the reasons for his decision in respect of such disallowance or surcharge, and also of any allowance which he may have made :
- (8.) Any person aggrieved by disallowance made may apply to the Court of Queen's Bench for a writ of certiorari to remove the disallowance into the said court, in the same manner and subject to the same conditions as are provided in the case of disallowances by auditors under the laws for the time being in force with regard to the relief of the poor ; and the said court shall have the same powers with respect to allowances, disallowances and surcharges under this Act as it has with respect to disallowances or allowances by the said auditors ; or in lieu of such application any person so aggrieved may appeal to the Local Government Board, which Board shall have the same powers in the case of the appeal as it possesses in the case of appeals against allowances, disallowances and surcharges by the said poor law auditors :
- (9.) Every sum certified to be due from any person by an auditor under this Act shall be paid by such person to the treasurer of such authority within four-

teen days after the same has been so certified, unless there is an appeal against the decision; and if such sum is not so paid, and there is no such appeal, the auditor shall recover the same from the person against whom the same has been certified to be due by the like process and with the like powers as in the case of sums certified on the audit of the poor rate accounts, and shall be paid by such authority all such costs and expenses, including a reasonable compensation for loss of time incurred by him in such proceedings, as are not recovered by him from such person:

- (10.) Within fourteen days after the completion of the audit, the auditor shall report on the accounts audited and examined, and shall deliver such report to the clerk of such authority, who shall cause the same to be deposited in their office, and shall publish an abstract of such accounts in some one or more of the local newspapers circulated in the district.

Where the provisions as to audit of any local Act constituting a board of improvement commissioners are repugnant to or inconsistent with those of this Act, the audit of the accounts of such improvement commissioners shall be conducted in all respects in accordance with the provisions of this Act.

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**Sect. 249.** On the application of any local authority whose accounts are required by this Act to be audited to the clerk of the peace of the county in which the district of such authority is wholly or in part situated, the said clerk or his deputy shall tax any bill due to any solicitor or attorney in respect of legal business performed on behalf of such authority; and the allowance of any sum on such taxation shall be *prima facie* evidence of the reasonableness of the amount, but not of the legality of the charge.

Taxation of bill of solicitor or attorney.

The clerk of the peace shall be allowed for such taxation a remuneration after the rate to be fixed by the master of the Crown Office, and declared by an order of the Local Government Board.

If any such bill is not taxed by the clerk of the peace or some other duly authorised taxing officer before being presented to the auditors or auditor, the decision of the auditors or auditor upon the reasonableness and the legality of the charge shall be final.

**Sect. 250.** The accounts under this Act of officers or assistants of any local authority who are required to receive moneys or goods on behalf of such authority shall be audited by the auditors or auditor of the accounts of such authority, with the same powers, incidents and consequences as in the case of such last-mentioned accounts.

Auditor to audit accounts of officers.

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## PART VIII.

### ALTERATION OF AREAS AND UNION OF DISTRICTS.

#### *Alteration of Areas.*

**Sect. 276.** The Local Government Board may, on the application of the authority of any rural district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the net rateable value of such district, or of any contributory place therein, by order to be published in the London Gazette or in such other manner as the Local Government Board may direct, declare any provisions of this Act in force in urban districts to be in force in such rural district or contributory place, and may invest such authority with all or any of the powers, rights, duties, capacities, liabilities and obligations of an urban authority under this Act, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner during at and in which such powers, rights, duties, liabilities, capacities and obligations are to be exercised and

Local Government Board may invest rural authority with powers of urban authority.

38 & 39 Vict.  
c. 55, s. 276

attach: Provided that an order of the Local Government Board made on the application of one-tenth of the persons rated to the relief of the poor in any contributory place shall not invest the rural authority with any new powers beyond the limits of such contributory place.

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## PART IX.

### LOCAL GOVERNMENT BOARD.

#### *Inquiries by Board.*

Power of Board  
to direct  
inquiries.

**Sect. 293.** The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction, approval or consent is required by this Act.

Orders as to  
costs of inquiries.

**Sect. 294.** The Local Government Board may make orders as to the costs of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

Orders of Board  
under this Act.

**Sect. 295.** All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

Powers of  
inspectors of  
Local Govern-  
ment Board.

**Sect. 296.** Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

#### *Provisional Orders by Board.*

As to provisional  
orders made by  
Local Govern-  
ment Board.

**Sect. 297.** With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

- (1.) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:
- (2.) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections.

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#### *Power of Board to enforce performance of Duty by defaulting Local Authority.*

Proceedings on  
complaint to  
Board of default  
of local  
authority.

**Sect. 299.** Where complaint is made to the Local Government Board that a local authority has made default in providing their district with sufficient sewers, or in the maintenance of existing sewers, or in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a local authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied, after due inquiry, that the authority has been guilty

of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint. If such duty is not performed by the time limited in the order, such order may be enforced by writ of Mandamus, or the Local Government Board may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the authority in default; and any order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an order of such Court.

38 & 39 Vict.  
c. 55. s. 299.

Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such authority other than (save as herein-after provided) the powers of levying rates; and the Local Government Board may from time to time by order change any person so appointed.

**Sect. 300.** Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such authority, and to be a debt due from such authority, and payable out of any moneys in the hands of such authority or of their officers, or out of any rate applicable to the payment of any expenses properly incurred by such authority, which rate is in this part of this Act referred to as "the local rate." If the defaulting authority refuses to pay any such sum, with costs, as aforesaid, for a period of fourteen days after demand, the Local Government Board may by order empower any person to levy, by and out of the local rate, such sum (the amount to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the nonpayment of such debt.

Further provision for recovery of expenses.

Any person or persons so empowered shall have the same powers of levying the local rate, and requiring all officers of the defaulting authority to pay over any moneys in their hands, as the defaulting authority would have in the case of expenses legally payable out of a local rate to be raised by such authority; and the said person or persons, after repaying all sums of money so due in respect of the order, shall pay the surplus, if any (the amount to be ascertained by the Local Government Board), to or to the order of the defaulting authority.

**Sect. 301.** The Local Government Board may from time to time certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the said Board under this Act to perform the duty of a defaulting local authority; also the amount of any loan required to be raised for the purpose of defraying any expenses that have been so incurred, or are estimated as about to be incurred; and the certificate of the said Board shall be conclusive as to all matters to which it relates.

Power of Board to borrow to defray expenses of performing duty of defaulting authority.

Whenever the Local Government Board so certifies a loan to be required, the Public Works Loan Commissioners may advance to the Local Government Board, or to any person appointed as aforesaid, the amount of the loan so certified to be required on the security of the local rate, without requiring any other security; and the Local Government Board, or the person so appointed, may, by any instrument duly executed, charge the local rate with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the defaulting local authority were empowered to raise such loan on the security of the local rate, and had duly executed an instrument charging the same on the local rate.

**Sect. 302.** Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting local authority shall be taken to be a debt due from such authority, and, in addition to any other remedies, may

Recovery of principal and interest.

38 & 39 Vict.  
c. 55, s. 302.

be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this part of this Act.

The surplus (if any) of any such loan, after payment of the expenses aforesaid, shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting authority.

"Expenses," for the purposes of the provisions of this part of this Act relating to defaulting local authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board, or the person appointed by that Board.

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## SCHEDULE I.

### RULES AS TO MEETINGS AND PROCEEDINGS.

#### (1) *Rules applicable to Local Boards.*

1. Every local board shall from time to time make regulations with respect to the summoning notice, place, management and adjournment of their meetings, and generally with respect to the transaction and management of their business under this Act.

2. No business shall be transacted at any such meeting unless at least one-third of the full number of members be present thereat, subject to this qualification, that in no case shall a larger quorum than seven members be required.

3. Every local board shall from time to time at their annual meeting appoint one of their number to be chairman for one year at all meetings at which he is present.

4. If the chairman so appointed dies, resigns or becomes incapable of acting, another member shall be appointed to be chairman for the period during which the person so dying, resigning or becoming incapable would have been entitled to continue in office, and no longer.

5. If the chairman is absent from any meeting at the time appointed for holding the same, the members present shall appoint one of their number to act as chairman thereat.

6. The names of the members present, as well as of those voting on each question, shall be recorded, so as to show whether each vote given was for or against the question.

7. Every question at a meeting shall be decided by a majority of votes of the members present, and voting on that question.

8. In case of an equal division of votes the chairman shall have a second or casting vote.

9. The proceedings of a local board shall not be invalidated by any vacancy or vacancies among their members, or by any defect in the election of such board, or in the election or selection or qualification of any members thereof.

10. Any minute made of proceedings at a meeting, and copies of any orders made or resolutions passed at a meeting, if purporting to be signed by the chairman of the meeting at which such proceedings took place or such orders were made or resolutions passed, or by the chairman of the next ensuing meeting, shall be received as evidence in all legal proceedings; and, until the contrary is proved, every meeting where minutes of the proceedings have been so made shall be deemed to have been duly convened and held, and all the proceedings thereat to have been duly had.

11. The annual meeting of a local board shall be held as soon as may be convenient after the fifteenth of April in each year.

12. The first meeting of a local board for the district constituted after the passing of this Act shall be held at such place and on such day (not being more than ten days after the completion of the election) as the returning officer may by written notice to each member of the board appoint; and the members shall appoint one of their number to be chairman at such meeting, and shall also appoint one of their number to be chairman for one year at all meetings at which he is present.

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# THE MUNICIPAL CORPORATIONS ACT, 1882.

[45 & 46 VICT. CH. 50.]

## PART II

### CONSTITUTION AND GOVERNMENT OF BOROUGH.

#### *Supplemental and Exceptional Provisions.*

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**Sect. 34.**—(1.) Every qualified person elected to a corporate office, unless exempt under this section or otherwise by law, either shall except the office by making and subscribing the declaration required by this Act within five days after notice of election, or shall, in lieu thereof, be liable to pay to the council a fine of such amount not exceeding, in case of an alderman, councillor, elective auditor, or revising assessor, fifty pounds, and in case of a mayor one hundred pounds as the council by byelaw determine.

Obligation to accept office or pay fine.

(2.) If there is no byelaw determining fines, the fine, in case of an alderman, councillor, elective auditor, or revising assessor, shall be twenty-five pounds, and in case of a mayor fifty pounds.

(3.) The persons exempt under this section are—

(a) Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body ; and

(b) Any person who, being above the age of sixty-five years, or having within five years before the day of his election either served the office or paid the fine for non-acceptance thereof, claims exemption within five days after notice of his election.

(4.) A fine payable under this section shall be recoverable summarily.

**Sect. 35.** A person elected to a corporate office shall not, until he has made and subscribed before two members of the council, or the town clerk, a declaration as in the Eighth Schedule, act in the office except in administering that declaration.

Declaration on acceptance of office.

**Sect. 36.**—(1.) A person elected to a corporate office may at any time, by writing signed by him and delivered to the town clerk, resign the office, on payment of the fine provided, for non-acceptance thereof.

Fine on resignation, &c.

(2.) In any such case the council shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the council and countersigned by the town clerk, and fixed on the town hall, and the office shall thereupon become vacant.

(3.) No person enabled by law to make an affirmation instead of taking an oath shall be liable to any fine for non-acceptance of office by reason of his refusal on conscientious grounds to take any oath or make any declaration required by this Act or to take on himself the duties of the office.

**Sect. 37.** A person ceasing to hold a corporate office shall, unless disqualified to hold the office, be re-eligible.

Re-eligibility of office holders.

\* \* \* \* \*

**Sect. 40.**—(1.) On a casual vacancy in a corporate office, an election shall be held by the same persons and in the same manner as an election to fill an ordinary vacancy ; and the person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

Filling of casual vacancies.

45 & 46 Vict.  
c. 50, s. 40.

(2.) In case of more than one casual vacancy in the office of councillor being filled at the same election, the councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the council.

(3.) Non-acceptance of office by a person elected creates a casual vacancy.

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### PART III.

#### PREPARATIONS FOR AND PROCEDURE AT ELECTIONS.

##### *Election of Councillors.*

Relation of  
nomination to  
election.

**Sect. 56.**—(1.) If the number of valid nominations exceeds that of the vacancies, the councillors shall be elected from among the persons nominated.

(2.) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.

(3.) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and such of the retiring councillors for the borough or ward as were highest on the poll at their election, or, if the poll was equal, or there was no poll, as are selected for that purpose by the mayor, shall be deemed to be re-elected to make up the required number.

(4.) If there is no valid nomination, the retiring councillors shall be deemed to be re-elected.

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##### *Supplemental and Exceptional Provisions.*

\* \* \* \* \*

Time for filling  
casual vacancies.

**Sect. 66.**—(1.) On a casual vacancy in a corporate office, the election shall be held within fourteen days after notice in writing of the vacancy has been given to the mayor or town clerk by two burgesses.

(2.) Where the office vacant is that of mayor, the notice of the meeting for the election shall be signed by the town clerk.

(3.) In other cases the day of election shall be fixed by the mayor.

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Offences in rela-  
tion to nomina-  
tion papers.

**Sect. 74.**—(1.) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the town clerk any forged nomination paper, knowing it to be forged; he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding six months with or without hard labour.

(2.) An attempt to commit any such offence shall be punishable as the offence is punishable.

Offences in rela-  
tion to lists and  
elections.

**Sect. 75.**—(1.) If a mayor or revising assessor neglects or refuses to revise a parish burgess list, or a mayor or alderman neglects or refuses to conduct or declare an election, as required by this Act, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2.) If—

(a) An overseer neglects or refuses to make, sign, or deliver a parish burgess list as required by this Act; or

(b) A town clerk neglects or refuses to receive, print, and publish, a parish burgess list or list of claimants or respondents, as required by this Act; or

(c) An overseer or town clerk refuses to allow any such list to be inspected by a person having a right thereto:

he shall for every such neglect or refusal be liable to a fine not exceeding fifty pounds, recoverable by action.

45 & 46 Vict.  
c. 50, s. 75.

(3.) An action under this section shall not lie after three months from the neglect or refusal. A moiety of any fine recovered therein shall, after payment of the costs of action, be paid to the plaintiff.

\* \* \* \* \*

## PART IV.\*

### CORRUPT PRACTICES AND ELECTION PETITIONS.

#### *Corrupt Practices.*

**Sect. 77.** In this Part—

Definitions

“Bribery,” “treating,” “undue influence,” and “personation,” include respectively anything done before, at, after, or with respect to a municipal election, which if done before, at, after, or with respect to a parliamentary election would make the person doing the same liable to any penalty, punishment or disqualification for bribery, treating, undue influence, or personation, as the case may be under any Act for the time being in force with respect to parliamentary elections.

“Candidate” means a person elected, or having been nominated, or having declared himself a candidate for election, to a corporate office :

“Voter” means a burgess or a person who votes or claims to vote at a municipal election :

“Election court” means a court constituted under this Part for the trial of an election petition :

“Municipal election petition” or “election petition” means a petition under this Part complaining of an undue municipal election :

“Parliamentary election petition” means a petition under the Parliamentary Elections Act, 1868 :

31 & 32 Vict.  
c. 125.

“Prescribed” means prescribed by general rules made under this Part :

“Borough” and “election” when used with reference to a petition mean the borough and election to which the petition relates.

\* \* \* \* \*

**Sect. 81.** A municipal election shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of Parliament avoid a parliamentary election.

Avoidance of  
election for  
general  
corruption.

\* \* \* \* \*

**Sect. 85.** The votes of persons in respect of whom any corrupt practice is proved to have been committed at a municipal election shall be struck off on a scrutiny.

Striking off  
votes.

**Sect. 86.** The enactments for the time being in force for the detection of personation and for the apprehension of persons charged with personation at a parliamentary election shall apply in the case of a municipal election.

Personation.

#### *Election Petitions.*

**Sect. 87.**—(1.) A municipal election may be questioned by an election petition on the ground—

Power to ques-  
tion municipal  
election by  
petition.

(a.) That the election was as to the borough or ward wholly avoided by general bribery, treating, undue influence, or personation ; or

(b.) That the election was avoided by corrupt practices or offences against this Part committed at the election ; or

(c.) That the person whose election is questioned was at the time of the election disqualified ; or

(d.) That he was not duly elected by a majority of lawful votes.

\* Only so much of Part IV. as is not repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, is reprinted here.

45 & 46 Vict.  
c. 50, s. 87.

Presentation of  
petition.

(2.) A municipal election shall not be questioned on any of those grounds except by an election petition.

**Sect. 88.**—(1.) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election.

(2.) Any person whose election is questioned by the petition, and any returning officer of whose conduct a petition complains, may be made a respondent to the petition.

(3.) The petition shall be in the prescribed form and shall be signed by the petitioner, and shall be presented in the prescribed manner to the High Court in the Queen's Bench Division, and the prescribed officer shall send a copy thereof to the town clerk, who shall forthwith publish it in the borough.

(4.) It shall be presented within twenty-one days after the day on which the election was held, except that if it complains of the election on the ground of corrupt practices, and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his privity, in pursuance or furtherance of such corrupt practices, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person had been previously presented or tried.

Security for  
costs.

**Sect. 89.**—(1.) At the time of presenting an election petition or within three days afterwards, the petitioner shall give security for all costs, charges, and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent.

(2.) The security shall be to such amount, not exceeding five hundred pounds, as the High Court, or a Judge thereof, on summons, directs, and shall be given in the prescribed manner, either by a deposit of money, or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other.

(3.) Within five days after the presentation of the petition the petitioner shall in the prescribed manner serve on the respondent a notice of the presentation of the petition and of the nature of the proposed security and a copy of the petition.

(4.) Within five days after the service of the notice the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead, or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the same.

(5.) An objection to a recognisance shall be decided in the prescribed manner.

(6.) If the objection is allowed, the petitioner may, within a further prescribed time not exceeding five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(7.) If no security is given, as prescribed, or any objection is allowed and is not removed as aforesaid, no further proceedings shall be had on the petition.

Petition at issue.

**Sect. 90.** On the expiration of the time limited for making objections, or, after objection made on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

Municipal  
election list.

**Sect. 91.**—(1.) The prescribed officer shall as soon as may be make a list, in this Act referred to as the municipal election list, of all election petitions at issue, placing them in the order in which they were presented, and shall keep at his office a copy of this list, open to inspection in the prescribed manner.

(2.) The petitions shall, as far as conveniently may be, be tried in the order in which they stand in the list.

(3.) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part the petition shall be deemed to be a separate petition against each respondent.

(4.) Where more petitions than one are presented relating to the same election,

or to elections held at the same time for different wards of the same borough, they shall be bracketed together in the list as one petition, but shall, unless the High Court otherwise directs, stand in the list in the place where the last of them would have stood if it had been the only petition relating to that election.

45 & 46 Vict.  
c. 56, s. 91.

**Sect. 92.**—(1.) An election petition shall be tried by an election court consisting of a barrister qualified and appointed as in this section provided, without a jury. Constitution of election court.

(2.) A barrister shall not be qualified to constitute an election court if he is of less than fifteen years' standing, or is a member of the Commons House of Parliament, or holds any office or place of profit under the Crown, other than that of recorder.

(3.) A barrister shall not be qualified to constitute an election court for trial of an election petition relating to any borough for which he is recorder, or in which he resides, or which is included in a circuit of Her Majesty's judges on which he practises as a barrister.

(4.) As soon as may be after a municipal election list is made out the prescribed officer shall send a copy thereof to each of the judges for the time being on the rota for the trial of parliamentary election petitions.

(5.) If a commissioner to whom the trial of a petition is assigned, dies, or declines or becomes incapable to act, the said judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(6.) The election court shall for the purposes of the trial have the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal by the court may on motion by the person aggrieved be discharged or varied by the High Court, or in vacation by a judge thereof, on such terms, if any, as the High Court or judge thinks fit.

**Sect. 93.**—(1.) An election petition shall be tried in open court, and notice of the time and place of trial shall be given in the prescribed manner not less than seven days before the day of trial. Trial of election petition.

(2.) The place of trial shall be within the borough, except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

(3.) The election court may in its discretion adjourn the trial from time to time, and from any one place to any other place within the borough or place where it is held.

(4.) At the conclusion of the trial the election court should determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and shall forthwith certify in writing the determination to the High Court, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(5.) Where a charge is made in a petition of any corrupt practice or offence against this Part having been committed at the election the court shall, in addition to the certificate, and at the same time, report in writing to the High Court as follows:

(a.) Whether any corrupt practice or offence against this Part has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt practice or offence;

(b.) The names of all persons (if any) proved at the trial to have been guilty of any corrupt practice or offence against this Part;

(c.) Whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the borough or in any ward thereof.

(6.) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, be submitted to the High Court.

(7.) If, on the application of any party to a petition made in the prescribed

45 & 46 Vict.  
c. 50, s. 93.

manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct the same to be stated accordingly, and any such special case shall be heard before the High Court, and the decision of the High Court shall be final.

(8.) If it appears to the election court on the trial of a petition that any question of law as to the admissibility of evidence, or otherwise, requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve any such question, as questions may be reserved by a judge on a trial *at nisi prius*.

(9.) On the trial of a petition, unless the election court otherwise directs, any charge of a corrupt practice or offence against this Part may be gone into, and evidence in relation thereto received before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice or offence.

(10.) On the trial of a petition complaining of an undue election and claiming the office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(11.) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.

(12.) A copy of any certificate or report made to the High Court on the trial of a petition, and, in the case of a decision by the High Court on a special case, a statement of the decision shall be sent by the High Court to the Secretary of State.

(13.) A copy of any such certificate and a statement of any such decision shall also be certified by the High Court, under the hands of two or more judges thereof, to the town clerk of the borough.

Witnesses.

**Sect. 94.**—(1.) Witnesses at the trial of an election petition shall be summoned and sworn in the same manner, as nearly as circumstances admit, as witnesses at a trial *at nisi prius*, and shall be liable to the same penalties for perjury.

(2.) On the trial the election court may, by order in writing, require any person who appears to the court to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3.) The court may examine any person so required to attend or being in court although he is not called and examined by any party to the petition.

(4.) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent or either of them.

\* \* \* \* \*

(9.) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions at the assizes, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by the court, shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

Withdrawal of  
petition.

**Sect. 95.**—(1.) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application made in the prescribed manner, and at the prescribed time and place.

(2.) The application shall not be made until the prescribed notice of the intention to make it has been given in the borough.

(3.) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(4.) If the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(5.) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(6.) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

(7.) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(8.) Where there are more petitioners than one, an application to withdraw a petition shall not be made except with the consent of all the petitioners.

**Sect. 96.**—(1.) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

Abatement of petition.

(2.) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

(3.) On the abatement of a petition the prescribed notice thereof shall be given in the borough, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and at the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4.) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

**Sect. 97.**—(1.) If before the trial of an election petition a respondent other than a returning officer—

Withdrawal and substitution of respondents.

(a.) Dies, resigns, or otherwise ceases to hold the office to which the petition relates; or

(b.) Gives the prescribed notice that he does not intend to oppose the petition; the prescribed notice thereof shall be given in the borough, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election may apply to the election court or High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.

(2.) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

**Sect. 98.**—(1.) All costs, charges, and expenses of and incidental to the presentation of an election petition, and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and proportions as the election court determines; and in particular any costs, charges, or expenses which in the opinion of the court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or of the respondent, and any needless expenses incurred or caused on the part of petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether they are or not on the whole successful.\*

Costs on election petitions.

(2.) The costs may be taxed in the prescribed manner, but according to the same principles as costs between solicitor and client in an action in the High Court, and may be recovered as the costs of such an action, or as otherwise prescribed.

(3.) If a petitioner neglects or refuses for three months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges, and expenses, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who has under this Act entered into a recognisance relating to

\* So much of sect. 98 as relates to the principles of taxation is repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

45 & 46 Vict.  
c. 50, s. 98.

the petition shall be held to have made default in the recognisance, and the prescribed officer shall thereon certify the recognisance to be forfeited, and it shall be dealt with as a forfeited recognisance relating to a parliamentary election petition.

Reception of and  
attendance on  
the election court

**Sect. 99.**—(1.) The town clerk shall provide proper accommodation for holding the election court; and any expenses incurred by him for the purposes of this section shall be paid out of the borough fund or borough rate.

(2.) All chief and head constables, superintendents of police, head boroughs, gaolers, constables, and bailiffs shall give their assistance to the election court in the execution of its duties, and if any gaoler or officer of a prison makes default in receiving or detaining a prisoner committed thereto in pursuance of this Part, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3.) The election court may employ officers and clerks as prescribed.

(4.) A shorthand writer shall attend at the trial of an election petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial. He shall take down the evidence at length. A transcript of the notes of the evidence taken by him shall, if the election court so directs, accompany the certificate of the election court. His expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the court.

Rules of pro-  
cedure and  
jurisdiction.

**Sect. 100.**—(1.) The judges for the time being on the rota for the trial of parliamentary election petitions, may from time to time make, revoke, and alter General Rules for the effectual execution of this Part, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of municipal election petitions, and the trial thereof, and the certifying and reporting thereon.

(2.) All such rules shall be laid before both Houses of Parliament within three weeks after they are made, if Parliament is then sitting, and if not, within three weeks after the beginning of the then next session of Parliament, and shall, while in force, have effect as if enacted in this Act.

(3.) Subject to the provisions of this Act, and of the rules made under it, the principles, practices, and rules for the time being observed in the case of parliamentary election petitions, and in particular the principles and rules with regard to agency and evidence, and to a scrutiny, and to the declaring any person elected in the room of any other person declared to have been not duly elected, shall be observed, as far as may be, in the case of a municipal election petition.

(4.) The High Court shall, subject to this Act, have the same powers, jurisdiction, and authority with respect to a municipal election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

(5.) The duties to be performed by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(6.) The general rules in force at the commencement of this Act with respect to matters within this Part shall, until superseded by rules made under this section, and subject to any amendment thereof by rules so made, have effect, with the necessary modifications, as if made under this section.

Expenses of  
election court.

**Sect. 101.**—(1.) The remuneration and allowances to be paid to a commissioner for his services in respect of the trial of an election petition, and to any officers, clerks, or shorthand writers, employed under this Part, shall be fixed by a scale made and varied by the election judges on the rota for the trial of parliamentary election petitions, with the approval of the Treasury. The remuneration and allowances shall be paid in the first instance by the Treasury, and shall be repaid to the Treasury, on their certificate, out of the borough fund or borough rate.

(2.) But the election court may in its discretion order that such remuneration and allowances, or the expenses incurred by a town clerk for receiving the election court, shall be repaid, wholly or in part, to the Treasury or the town clerk, as the case may be, in the cases, by the persons, and in the manner following; (namely,)



- (a.) When in the opinion of the election court a petition is frivolous and vexatious, by the petitioner ;  
 (b.) When in the opinion of the election court a respondent has been personally guilty of corrupt practices at the election, by that respondent.  
 (3.) An order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs ; but a deposit made or security given under this Part shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

45 & 46 Vict.  
c. 50, s. 101.

**Sect. 102.** Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

Acts done pending a petition not invalidated.

**Sect. 103.** Where on an election petition the election of any person to a corporate office has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy ; and for the purposes of the election any duties to be performed by a mayor, alderman, or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness.

Provisions as to elections in the room of persons unseated on petition.

**Sect. 104.** A person who has voted at a municipal election by ballot shall not in any proceeding to question the election be required to state for whom he has voted.

Prohibition of disclosure of vote.

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## PART VII.

BOROUGH FUND :      BOROUGH RATE :      COUNTY RATE :

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**Sect. 140.** (1.) The borough fund shall be applicable to and charged with the several payments specified in the Fifth Schedule.

Application of Borough Fund.

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## PART XI.

### GRANT OF CHARTERS.

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**Sect. 213.**—(1.) Where a petition for a charter is referred to the Committee of Council, and it is proposed by the charter to extend the Municipal Corporations Acts to the municipal borough to be created by the charter, the Committee of Council may settle a scheme for the adjustment of the powers, rights, privileges, franchises, duties, property, and liabilities of any then existing local authority whose district comprises the whole or part of the area of that borough, either with or without any adjoining or other place, and also of any officer of that authority.

Scheme of continuance or abolition of and adjustment of rights of existing local authority and officers.

(2.) The scheme, so far as it appears to the Committee of Council to be necessary or proper for carrying into effect the said adjustment as regards any local authority existing at the time of the making of the scheme, may contain provisions for the continuance of that authority, or for the abolition total or partial of that authority, or for the creation of another authority or authorities, and the alteration of the district of the existing local authority, and the union or other relation of the existing local authority and the authority or authorities so created, and for the continuance, modification, transfer, vesting, and extension to the whole of the borough of all or any of the powers, rights, privileges, franchises, duties, property, and liabilities of the existing local authority, and may contain such provisions as

15 & 46 Vict.  
c. 50, s. 213.

appear to the Committee of Council to be necessary or proper for fully carrying into effect any such adjustment and provisions as aforesaid.

(3.) The scheme, when settled by the Committee of Council, shall be published in the London Gazette, and shall not be of any effect unless confirmed as herein-after mentioned.

(4.) Where, within one month after the publication of the scheme in the London Gazette, a petition against it by any local authority affected thereby, or by not less than one-twentieth of the owners and ratepayers of the borough (such twentieth to be one-twentieth in number of the owners and ratepayers of the borough taken together, or the owners and ratepayers in respect of one-twentieth of the rateable property in the borough and the owners and ratepayers in all cases to include women not under coverture) has been received by the Committee of Council, and is not withdrawn, the scheme shall require the confirmation of Parliament, and the Committee of Council may, if they think fit, submit it to Parliament for confirmation; but otherwise, at any time after the expiration of the said month, or after the withdrawal of any petition that has been presented, the Committee of Council may, if they think fit, submit the scheme for confirmation, either to Parliament or to Her Majesty in Council, and in the latter case it shall be lawful for Her Majesty to confirm the scheme by Order in Council.

(5.) A scheme, when confirmed by Parliament or by Order in Council, shall have full operation, with, in the former case, such modifications, if any, as are made therein by Parliament, as if the scheme were part of this Act.

(6.) A local authority for the purposes of this Part means a sanitary authority, (not being the mayor, aldermen, and burgesses of a borough subject to the Municipal Corporations Acts,) also the corporation of a borough not subject to the Municipal Corporations Acts, a burial board, trustees, commissioners or other persons who, as a public body and not for their own profit, act under any Act for paving, lighting, supplying with water or gas, cleansing, watching, regulating or improving any town or place, or for providing or maintaining a cemetery or market in or for any town or place, and any commissioners, trustees, or other persons (not being justices) maintaining any police force, and any other authority not in this section excepted, and not being a school board, and having powers of local government and of rating for public purposes.

(7.) The district of a local authority for the purposes of this section means the area within which such authority can exercise any powers or rights.

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### THIRD SCHEDULE. PART III. Rule 5.

All expenses of the election shall be defrayed in manner by this Act provided.

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### FIFTH SCHEDULE. PART II. Rule 10.

The expenses of and relating to a charter of incorporation for a borough, and of and relating to all elections acts and proceedings under the charter.

## MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

[47 & 48 VICT. CH. 70.]

*An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections.*

[14th August, 1884.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

**Sect. 1.** This Act may be cited as the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

47 & 48 Vict.  
c. 70, s. 1.

Short title.

### *Corrupt Practices.*

**Sect. 2.** (1.) The expression "corrupt practice" in this Act means any of the following offences, namely, treating, undue influence, bribery, and personation as defined by the enactments set forth in Part One of the Third Schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation.

Definition and punishment of corrupt practice at municipal election.

(2.) A person who commits any corrupt practice in reference to a municipal election shall be guilty of the like offence, and shall on conviction be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a parliamentary election.

**Sect. 3.** (1.) Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the report of an election court made in pursuance of section ninety-three of the Municipal Corporations Act, 1882, that any corrupt practice, other than treating and undue influence, has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever holding a corporate office in the said borough, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of a corrupt practice.

Incapacity of candidate reported guilty of corrupt practice.  
45 & 46 Vict.  
c. 59.

(2.) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election, and if the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall not be capable of being elected to or holding any corporate office in the said borough, during a period of three years from the date of the report, and if he has been elected, his election shall be void.

### *Illegal Practices.*

**Sect. 4.** (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made—

Certain expenditure to be illegal practice.

- (a) on account of the conveyance of electors to or from the poll whether for the hiring of horses or carriages, or for railway fares, or otherwise; or
- (b) to an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or
- (c) on account of any committee room in excess of the number allowed by this Act (that is to say), if the election is for a borough one committee room for the borough, and if the election is for a ward one committee room for the ward, and if the number of electors in such borough or ward exceeds two thousand, one additional committee room for every two thousand electors and incomplete part of two thousand electors, over and above the said two thousand.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after a municipal election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

47 & 48 Vict.  
c. 79, s. 4.

(3.) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

Expenses in  
excess of  
maximum to be  
illegal practice.

**Sect. 5.** (1.) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by or on behalf of a candidate at an election, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, save that in the case of an election of a councillor a sum may be paid and expense incurred not in excess of the maximum amount following; (that is to say,)

The sum of twenty-five pounds, and, if the number of electors in the borough or ward exceeds five hundred, an additional amount of threepence for each elector above the first five hundred electors.

(2.) Any candidate or agent of a candidate or person who knowingly acts in contravention of this section shall be guilty of an illegal practice.

(3.) Where there are two or more joint candidates at an election the maximum amount of expenses shall, for each of such joint candidates, be reduced by one fourth, or if there are more than two joint candidates, by one third.

(4.) Where two or more candidates at the election, by themselves or any agent or agents, hire or use the same committee rooms for such election, or employ or use the services of the same clerks, messengers, or polling agent at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election: Provided that—

(a.) The employment and use of the same committee room, clerk, messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates:

(b.) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates:

(c.) Where any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate, and such ceasing or beginning was in good faith, and such excess is not more than under the circumstances is reasonable, and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate, such excess shall be deemed to have arisen from a reasonable cause within the meaning of the enactments respecting the allowance by the High Court or election court of an exception from the provisions of this Act which would otherwise make an act an illegal practice, and the candidate may be relieved accordingly from the consequences of having incurred such excess of expenses.

Voting by  
prohibited  
persons and  
publishing of  
false statements  
of withdrawal  
to be illegal.

**Sect. 6.** (1.) If any person votes or induces or procures any person to vote at a municipal election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice.

(2.) Any person who before or during a municipal election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

(3.) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed without his knowledge and consent.

Punishment on  
conviction of  
illegal practice.

**Sect. 7.** A person guilty of an illegal practice in reference to a municipal election, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a

parliamentary election or an election for a public office within the meaning of this Act held for or within the borough in which the illegal practice has been committed.

47 & 48 Vict.  
c. 70, s. 7.

**Sect. 8.** (1.) An illegal practice within the meaning of this Act shall be deemed to be an offence against Part Four of the Municipal Corporations Act, 1882, and a petition alleging such illegal practice may be presented and tried accordingly.

Incapacity of  
candidate  
reported guilty  
of illegal  
practice,  
45 & 46 Vict.  
c. 50.

(2.) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough in which a charge is made of any illegal practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by himself or his agents of an illegal practice in reference to such election, and if the report is that a candidate at such election has been guilty by himself or his agents of an illegal practice in reference to such election, the candidate shall not be capable of being elected to or of holding any corporate office in the said borough during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected, his election shall be void; and, if the report is that such candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice.

### *Illegal Payment, Employment, and Hiring.*

**Sect. 9.** Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment.

Providing of  
money for illegal  
practice or pay-  
ment to be illegal  
payment.

**Sect. 10.** (1.) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll at a municipal election, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of illegal hiring.

Employment of  
hackney  
carriages, or of  
carriages and  
horses kept for  
hire

(2.) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of illegal hiring.

(3.) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

(4.) No person shall be liable to pay any duty or to take out a licence for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

**Sect. 11.** Any person who corruptly induces or procures any other person to withdraw from being a candidate at a municipal election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

Corrupt with-  
drawal from a  
candidature.

**Sect. 12.** (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

Certain expendi-  
ture to be illegal  
payment

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either

47 & 48 Vict.  
c. 70, s. 12.

before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

Certain employ-  
ment to be  
illegal.

**Sect. 13.** (1.) No person shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except as follows : (that is to say.)

(a.) a number of persons may be employed, not exceeding two for a borough or ward, and if the number of electors in such borough or ward exceeds two thousand one additional person may be employed for every thousand electors and incomplete part of a thousand electors over and above the said two thousand, and such persons may be employed as clerks and messengers, or in either capacity : and

(b.) one polling agent may be employed in each polling station :

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract, bona fide made with any person in the ordinary course of business.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Act.

(3.) A person legally employed for payment under this section may or may not be an elector, but may not vote.

Name and  
address of printer  
on placards.

**Sect. 14.** Every bill, placard, or poster having reference to a municipal election shall bear upon the face thereof the name and address of the printer and publisher thereof ; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Saving for  
creditors.

**Sect. 15.** The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

Use of certain  
premises for  
committee rooms  
or meetings to be  
illegal hiring.

**Sect. 16.** (1.) (a.) Any premises which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises, or

(b.) Any premises where any intoxicating liquor is supplied to members of a club, society, or association, or any part of any such premises,

shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same in contravention of this section, shall also be guilty of illegal hiring.

(2.) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

**Sect. 17. (1.)** A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2.) Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice.

47 & 48 Vict.  
c. 70, s. 17.

Punishment of  
illegal payment,  
employment, or  
hiring.

**Sect. 18.** Where, upon the trial of an election petition respecting a municipal election for a borough or ward of a borough, it is found by the election court that illegal practices or offences of illegal payment, employment, or hiring, committed in reference to such election for the purpose of promoting the election of a candidate at that election, have so extensively prevailed that they may be reasonably supposed to have affected the result of that election, the election court shall report such finding to the High Court, and the election of such candidate, if he has been elected, shall be void, and he shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any corporate office in the said borough.

Avoidance of  
election for  
extensive  
illegal practices,  
&c.

*Excuse and Exception for Corrupt or Illegal Practice or Illegal Payment, Employment, or Hiring.*

**Sect. 19.** Where, upon the trial of an election petition respecting a municipal election, the election court reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election court further report that the candidate has proved to the court—

Report exonerating candidate  
in certain cases  
of corrupt and  
illegal practice  
by agents.

- (a.) That no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and
  - (b.) That all reasonable means for preventing the commission of corrupt and illegal practices at such election were taken by and on behalf of the candidate; and
  - (c.) That the offences mentioned in the said report were of a trivial, unimportant, and limited character; and
  - (d.) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;
- then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

**Sect. 20.** Where, on application made, it is shown to the High Court or to a municipal election court by such evidence as seems to the Court sufficient—

Power of High  
Court and election  
court to  
except innocent  
act from being  
illegal practice,  
&c.

- (a.) that any act or omission of a candidate at a municipal election for a borough or ward of a borough, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring; and
- (b.) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c.) that such notice of the application has been given in the said borough as to the Court seems fit;

and under the circumstances it seems to the Court to be just that the said candidate, agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the Court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

47 & 48 Vict.  
c. 70, s. 21.

Sending in  
claims and  
making pay-  
ments for election  
expenses.

**Sect. 21.** (1.) Every claim against any person in respect of any expenses incurred by or on behalf of a candidate at an election of a councillor on account of or in respect of the conduct or management of such election shall be sent in within fourteen days after the day of election, and if not so sent in shall be barred and not paid, and all expenses incurred as aforesaid shall be paid within twenty-one days after the day of election, and not otherwise, and any person who makes a payment in contravention of this section, except where such payment is allowed as provided by this section, shall be guilty of an illegal practice, but if such payment was made without the sanction or connivance of the candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

(2.) Every agent of a candidate at an election of a councillor shall, within twenty-three days after the day of election, make a return to the candidate in writing of all expenses incurred by such agent on account of or in respect of the conduct or management of such election, and if he fails so to do shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(3.) Within twenty-eight days after the day of election of a councillor every candidate at such election shall send to the town clerk a return of all expenses incurred by such candidate or his agents on account of or in respect of the conduct or management of such election, vouched (except in the case of sums under twenty shillings) by bills stating the particulars and receipts, and accompanied by a declaration by the candidate made before a justice in the form set forth in the Fourth Schedule to this Act, or to the like effect.

(4.) After the expiration of the time for making such return and declaration the candidate, if elected, shall not, until he has made the return and declaration (in this Act referred to as the return and declaration respecting election expenses), or until the date of the allowance of such authorised excuse, as is mentioned in this Act, sit or vote in the council, and if he does so shall forfeit fifty pounds for every day on which he so sits or votes to any person who sues for the same.

(5.) If the candidate without such authorised excuse as is mentioned in this Act fails to make the said return and declaration he shall be guilty of an illegal practice, and if he knowingly makes the said declaration falsely he shall be guilty of an offence, and on conviction thereof on indictment shall be liable to the punishment for wilful and corrupt perjury, and such offence shall also be deemed to be a corrupt practice within the meaning of this Act.

(6.) The county court for the district in which the election was held, or the High Court, or an election court, may, on application either of the candidate or a creditor, allow any claim to be sent in and any expense to be paid after the time limited by this section, and a return of any sum so paid shall forthwith after payment be sent to the town clerk.

(7.) If the candidate applies to the High Court or an election court, and shows that the failure to make the said return and declaration, or either of them, or any error or false statement therein, has arisen by reason of his illness or absence, or of the absence, death, illness, or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application and on production of such evidence of the grounds stated in the application, and of the good faith of the applicant, and otherwise as to the court seems fit, make such order for allowing the authorised excuse for the failure to make such return and declaration, or for an error or false statement in such return or declaration, as to the court seems just.

(8.) The order may make the allowance conditional upon compliance with such terms as to the court seems calculated for carrying into effect the objects of this Act, and the order shall relieve the applicant from any liability or consequences under this Act in respect of the matters excused by the order.

(9.) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.



(10.) The return and declaration sent in pursuance of this Act to the town clerk shall be kept at his office, and shall at all reasonable times during the twelve months next after they are received by him be open to inspection by any person on payment of the fee of one shilling, and the town clerk shall, on demand, furnish copies thereof or of any part thereof at the price of twopence for every seventy-two words.

(11.) After the expiration of the said twelve months the town clerk may cause the return and declaration to be destroyed, or if the candidate so require shall return the same to him.

### *Disqualification of Electors.*

**Sect. 22.** Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a municipal election is prohibited from voting at such election, and if any such person votes his vote shall be void, and shall be struck off on a scrutiny.

47 & 48 Vict.  
c. 70, s. 21.

Prohibition of persons guilty of offences from voting.

**Sect. 23.** So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the Third Schedule to this Act, shall apply as part of this Act.

Application of ss. 37 & 38 of 46 & 47 Vict. c. 51.

**Sect. 24. (1.)** The town clerk in every municipal borough shall annually in July make out a list containing the names and description of all persons who, though otherwise qualified to be enrolled as burgesses of such borough, have under this Act, or under the Corrupt and Illegal Practices Prevention Act, 1883, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office, become after the commencement of this Act, by reason of conviction of a corrupt or illegal practice, or of the report of any election court or election commissioners, incapable of voting at a municipal election in such borough or any ward thereof, and the town clerk shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

List in burgess roll of persons incapacitated for voting by corrupt or illegal practices.

(2.) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in the said borough or in the county in which such borough is situate.

(3.) The town clerk of any municipal borough shall, not less than fourteen days before the first day appointed by law for the publication of the parish burgess lists in such borough, send the corrupt and illegal practices list to the overseers of every parish wholly or partly within the borough, and the overseers shall publish that list, together with the parish burgess lists, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to be enrolled as burgesses or to be elected councillors, or as circumstances require, add "objected" before his name in the list of claimants published by them, in like manner as is required by law in any other cases of disqualification.

(4.) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any parish burgess list may object to the omission of the name of any person from such first-mentioned list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the enrolment of burgesses.

(5.) The revising authority shall determine such claims and objections and shall revise such list in like manner, as nearly as circumstances admit, as in the case of other claims and objections and of any parish burgess list and list of persons entitled to be elected councillors.

47 & 48 Vict.  
c. 70, s. 24.

(6.) Where it appears to the revising authority that a person not named in the list is subject to have his name inserted in the corrupt and illegal practices list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in that list and expunge his name from any list of burgesses or of persons entitled to be elected councillors.

(7.) A revising authority in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or has not been guilty of any corrupt or illegal practice.

(8.) The corrupt and illegal practices list shall be appended to the burgess roll, and shall be printed and published therewith wherever the same is printed or published.

45 & 46 Vict.  
c. 50.

(9.) Any town clerk or overseer who fails to comply with the provisions of this section shall be liable to the like fine as he is liable to under section seventy-five of the Municipal Corporations Act, 1882, for any neglect or refusal in relation to a parish burgess list as therein mentioned.

### *Proceedings on Election Petitions.*

Petition for  
illegal practice.

**Sect. 25.** (1.) A municipal election petition complaining of the election on the ground of an illegal practice may be presented at any time before the expiration of fourteen days after the day on which the town clerk receives the return and declaration respecting election expenses by the candidate to whose election the petition relates, or where there is an authorised excuse for failing to make the return and declaration then within the like time after the date of the allowance of the excuse.

Time for  
presentation of  
petition alleging  
illegal practices.

(2.) A municipal election petition, complaining of the election on the ground of an illegal practice, and specifically alleging a payment of money or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privy of the candidate, in pursuance or in furtherance of such illegal practice, may be presented at any time within twenty-eight days after the date of such payment or act, whether or not any other petition against that person has been previously presented or tried.

45 & 46 Vict.  
c. 50.

(3.) Any election petition presented within the time limited by the Municipal Corporations Act, 1882, may for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice can, under this section, be presented.

(4.) This section shall apply notwithstanding the illegal practice is also a corrupt practice.

Withdrawal of  
election petition.

**Sect. 26.** (1) Before leave for the withdrawal of a municipal election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2.) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3.) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4.) If any person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are

(whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanour, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5.) Copies of the said affidavits shall be delivered to the Director of public prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the Director of public prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of public prosecutions or his assistant, or other representative, may consider material.

(6.) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section ninety-five of the Municipal Corporations Act, 1882, where the withdrawal is induced by a corrupt consideration.

(7.) In every case of the withdrawal of an election petition, by leave of the election court such court shall report in writing to the High Court whether, in the opinion of such election court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8.) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

**Sect. 27.** The trial of every municipal election petition shall, so far as is practicable consistently with the interests of justice in respect of such trial, be continued *de die in diem* on every lawful day until its conclusion.

17 & 49 Vict.  
c. 70, s. 26.

45 & 46 Vict.  
c. 50.

**Sect. 28.** (1.) On every trial of a municipal election petition the Director of public prosecutions shall by himself or by his assistant, or by such representative as herein-after mentioned, attend at the trial, and it shall be the duty of such Director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

Continuation of  
trial of election  
petition.

Attendance  
of Director  
of public  
prosecutions on  
trial of election  
petition, and  
prosecution by  
him of offenders.

(2.) It shall also be the duty of such Director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3.) It shall also be the duty of the said Director, without any direction from the election court, if he thinks it expedient in the interests of justice so to do, to prosecute, either before the said court or before any other competent court, any person who has not received a certificate of indemnity and who appears to him to have been guilty of a corrupt or illegal practice at a municipal election.

(4.) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is subject to under this or any other Act, upon conviction, whether on indictment or in any other proceeding for the said offence; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a term not exceeding six months, or to pay a fine not exceeding two hundred pounds, and if the offence is an illegal practice, to pay such fine as is fixed by this Act for the offence:

Provided that, in the case of a corrupt practice, the court, before proceeding to

47 & 48 Vict.  
c. 70, s. 28.

try summarily any person, shall give such person the option of being tried by a jury.

(5.) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence; and in either case may order him to be prosecuted before such court as may be named in the order: and for all purposes preliminary and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

(6.) Upon such order being made,

(a.) if the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence; and

(b.) if the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and

(c.) if the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought to that court.

(7.) Any order or act of an election court under this section shall not be subject to be discharged or varied under sub-section six of section ninety-two of the Municipal Corporations Act, 1882.

45 & 46 Vict.  
c. 50.

(8.) The Director of public prosecutions may nominate, with the approval of the Attorney-General, any barristers or solicitors of not less than ten years' standing, one of whom shall, when required, act as the representative for the purposes of this section of such Director, and when so acting shall receive such remuneration as the Treasury may approve. There shall be allowed to the Director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Treasury may approve.

(9.) The costs incurred in defraying the expenses of the Director of public prosecutions under this section (including the remuneration of his representatives) shall, in the first instance, be paid by the Treasury, and so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court, and shall be paid as the expenses of that court are directed by section one hundred and one of the Municipal Corporations Act, 1882, to be paid; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

45 & 46 Vict.  
c. 50.

Power to  
election court to  
order payment  
by borough or  
individual of  
costs of election  
petition.

**Sect. 29.** (1.) Where upon the trial of a municipal election petition it appears to the election court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as follows;

(a.) if it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the borough; and

(b.) if it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and of examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

47 & 48 Vict.  
c. 70, s. 29.

(2.) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

(3.) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part Four of the Municipal Corporations Act, 1882, and this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause or matter in the High Court on the higher scale, as between solicitor and client.

45 & 46 Vict.  
c. 50.

### *Miscellaneous.*

**Sect. 30.** Subject to the other provisions of this Act, the procedure for the prosecution of a corrupt or illegal practice or any illegal payment, employment, or hiring committed in reference to a municipal election, and the removal of any incapacity incurred by reason of a conviction or report relating to any such offence, and the duties of the Director of public prosecutions in relation to any such offence, and all other proceedings in relation thereto (including the grant to a witness of a certificate of indemnity), shall be the same as if such offence had been committed in reference to a parliamentary election; and sections forty-five and forty-six and sections fifty to fifty-seven (both inclusive), and sections fifty-nine and sixty of the Corrupt and Illegal Practices Prevention Act, 1883, shall apply accordingly as if they were re-enacted in this Act with the necessary modifications, and with the following additions:—

General provisions as to prosecution of offences under this Act.

(a.) Where the Director of public prosecutions considers that the circumstances of any case require him to institute a prosecution before any court other than an election court for any offence other than a corrupt practice committed in reference to a municipal election in any borough, he may, by himself or his assistant, institute such prosecution before any court of summary jurisdiction in the county in which the said borough is situate or to which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of such court; and

(b.) General rules for the purposes of Part Four of the Municipal Corporations Act, 1882, shall be made by the same authority as rules of court under the said sections; and

46 & 47 Vict.  
c. 51.

(c.) The giving or refusal to give a certificate of indemnity to a witness by the election court shall be final and conclusive.

s. 91 (7).

**Sect. 31.** If any person, in consequence of conviction or of the report of an election court under this Act, becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office, and such person, at the date of the said conviction or report, has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date.

Persons incapacitated by conviction or report to vacate seat or office.

**Sect. 32.** (1.) Where any costs of a petition are, under an order of a muni-

Payment and recovery of costs.

47 & 48 Vict.  
c. 70, s. 32.

municipal election court, to be paid by a borough, such costs shall be paid out of the borough fund or borough rate.

(2.) Where any costs or other sums are, under the order of an election court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

Service of  
notices.

**Sect. 33.** Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting a municipal election in any borough or ward of a borough, whether for the purpose of causing him to appear before the High Court or any election court, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any such court, for any purpose of this Act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the said borough, or, if the proceeding is before any court, in such other manner as the court may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

Definitions.  
45 & 46 Vict.  
c. 50.  
46 & 47 Vict.  
c. 51.

**Sect. 34.** In this Act expressions have the same meaning as in the Municipal Corporations Act, 1882, and in the Corrupt and Illegal Practices Prevention Act, 1883: except that the words "borough," "election petition," "election court," and "candidate," shall, unless the context otherwise requires, have the meaning given by the Municipal Corporations Act, 1882, and not the meaning given by the Corrupt and Illegal Practices Prevention Act, 1883: and except that "election" shall, unless the context otherwise requires, mean a municipal election.

For the purposes of this Act the number of electors shall be taken according to the enumeration of the electors in the burgess roll.

Application to  
city of London  
of Act and of  
Part IV. of  
45 & 46 Vict.  
c. 50

**Sect. 35.** This Act and Part IV. of the Municipal Corporations Act, 1882, shall apply to a municipal election in the city of London, subject as follows:—

- (1.) For the purpose of such application "municipal election" means an election to the office of mayor, alderman, common councilman, or sheriff, and includes the election of any officer elected by the mayor, aldermen, and liverymen in common hall, and the expression "corporate office" includes each of the aforesaid offices, and the expression "borough" shall be deemed to apply to the said city:
- (2.) The expression "burgess" means, in relation to each municipal election, any person entitled to vote at such election:
- (3.) Any costs or expenses directed to be paid out of the borough fund or borough rate shall, if incurred in respect of the election of an alderman or common councilman for any ward, be paid out of the ward rate of that ward, and in any other case shall be paid by the chamberlain of the said city out of the city's cash:
- (4.) The enactments relating to personation, polling agents, and disclosure of votes shall not apply, save that if any person commits any offence under the City of London Municipal Elections Amendment Act, 1867, in relation to the declaration required by that Act to be made at the poll, he shall, in addition, be deemed guilty of a corrupt practice under this Act:
- (5.) A vacancy in any office created by the decision of an election court shall be filled by a new election, and every summoning officer is hereby authorised and required to summon the electors for such election:
- (6.) In the case of an election of an alderman and common councilman a sum may be paid and expense incurred not in excess of the maximum fixed by this Act for the election of a councillor:
- (7.) In the case of an election by liverymen in common hall a sum may be paid and expenses incurred, if a poll be not demanded, not exceeding forty pounds, and, if a poll be demanded, then not exceeding two hundred and fifty pounds,

30 Vict. c. 1.

and, in the event of a poll being demanded, such poll shall take place on the third day after the demand for a poll be made, unless such third day be a Sunday, in which case the poll shall take place on the fourth day, and the poll shall last for one day only, and commence at the hour of eight in the morning and close at six in the evening.

47 & 48 Vict.  
c. 70, s. 35.

- (8.) The town clerk shall send the corrupt and illegal practices list, when made out by him, to the ward clerk of each ward not less than fourteen days before the day on which the list of persons entitled to vote in such ward is required to be made out, and the aldermen and common councilmen of each ward shall omit from such last-mentioned list the names of all persons mentioned in the corrupt and illegal practices list, and the corrupt and illegal practices list shall be printed and appended to every copy of the list of persons entitled to vote in such ward.

*Application of Act to other elections.*

**Sect. 36.** (1.) Subject as herein-after mentioned, the provisions of this Act and of Part Four of the Municipal Corporations Act, 1882, as amended by this Act, shall extend to elections for the offices mentioned in the first column of the First Schedule to this Act as if re-enacted herein and in terms made applicable thereto, and petitions may be presented and tried, and offences prosecuted and punished, and incapacities incurred in reference to each such election accordingly.

Application of  
this Act and  
Part IV. of  
45 & 46 Vict.  
c. 50, to other  
elections.

Provided that in the application of the said provisions to any such election :

- (a.) The area, officer, and rate mentioned opposite to the office in the second, third, and fourth columns of the said schedule, shall be deemed to be substituted for the borough or ward, town clerk, and borough fund or rate respectively.
- (b.) The expression "corporate office" in the said provisions shall mean an office mentioned in the said schedule, and in relation to the election of a guardian of a union includes any such office in the union, and "a municipal election" shall mean an election to such office, and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.
- (c.) No corrupt and illegal practices list shall be made for any such election.
- (d.) Vacancies created by the decision of an election court shall be filled by a new election.
- (e.) A petition relating to the election of a guardian of a union may be tried at any place within the union.
- (f.) Nothing in the said provisions shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to any office mentioned in the said schedule on any licensed or other premises not situate in an urban sanitary district or in the Metropolis :
- (g.) Where the poll at any election to an office in the said schedule is taken by means of voting papers, such of the said provisions as relate to personation, polling agents, disclosure of votes and conveyance of voters shall not apply ; but any offence in relation to voting papers or to personation or to voting at such election which is punishable on summary conviction (that is to say,) the offences mentioned in section three of the Poor Law Amendment Act, 1851, and in rule sixty-nine of Schedule Two to the Public Health Act, 1875, shall without prejudice to the punishment under such section and rule of a person guilty of such offence, be deemed to be an illegal practice within the meaning of the said provisions.
- (h.) The Local Government Board shall have the same power as heretofore under section eight of the Poor Law Amendment Act, 1842, to determine any question arising as to the right of a person to act as guardian, except that the Board shall not have power—

14 & 15 Vict.  
c. 105.  
32 & 33 Vict.  
c. 55.

7 & 6 Vict. c. 57.

- (a.) To determine, until after the expiration of twenty-one days after the election of a person as guardian, any question which can be determined upon an election petition under this section ; nor
- (b.) To determine any question which is raised by an election petition under this section, and is either awaiting decision or has been decided by an election court ; nor

47 & 48 Vict.  
c. 70, s. 36.

(c.) To determine any question of general corruption, or of any corrupt or illegal practice, except so far as appears to such Board necessary for determining the validity of any vote.

(2.) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges, may annually appoint as many barristers, not exceeding five, as they may think necessary to be commissioners for the trial of election petitions under Part Four of the Municipal Corporations Act, 1882, and this Act, and shall from time to time assign the petitions (whether relating to a municipal election or to any other election to which this Act extends) to be tried by each commissioner.

Exemption from  
provisions as to  
maximum  
expenses.

**Sect. 37.** The provisions of this Act which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to any of the elections mentioned in the First Schedule to this Act.

### *Repeal.*

Repeal of Acts.

**Sect. 38.** The Acts specified in the Second Schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned, but such repeal shall not affect anything duly done or suffered, or any right acquired or accrued, or any incapacity incurred, before the commencement of this Act; and any person subject to any incapacity under any enactment hereby repealed, or under any enactment for which such repealed enactment was substituted, shall continue subject thereto, and this Act shall apply to him as if he had become so subject in pursuance of the provisions of this Act.

\* \* \* \* \*

## SCHEDULES.

### FIRST SCHEDULE.

Section 36.

#### *Elections to which this Act extends. In England.*

Office.	Area.	Officer.	Rate.
Member of local board, as defined by the Public Health Act, 1875.	Local Government district or ward of such district.	Clerk to the local board, or person performing like duties.	The general district rate.
Member of Improvement Commissioners, as defined by the Public Health Act, 1875.	Improvement Act district or ward of such district.	Clerk to the Improvement Commissioners, or person performing like duties.	The general district rate or other rate out of which the expenses of the Improvement Commissioners are payable.
Guardian elected under the Poor Law Amendment Act, 1834.	Parish or ward of a parish or united parishes.	Clerk to the guardians, or person performing like duties.	The poor rate of the parish or united parishes.
Member of school board.	School district or division of the metropolis.	Returning officer of school board.	The school fund.



## SECOND SCHEDULE.

47 & 48 Vict.  
c. 70.

Second Sched.

*Enactments Repealed.*

A description or citation of a portion of an Act is inclusive of the words, section, or other part first and last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

*As to England.*

Section 38.

33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	Section thirty-three.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	Section seventy-seven, from "corrupt practice" down to "or personation," and from "canvasser" down to "candidate at a municipal election." Section seventy-eight. Section seventy-nine. Section eighty. Section eighty-two. Section eighty-three. Section eighty-four. Section ninety-two, sub-section four, from "and those judges" down to the end of the sub-section. Section ninety-four, sub-sections five, six, seven, and eight. So much of section ninety-eight, sub-section two, as relates to the principles of taxation.

## THIRD SCHEDULE.

## PART I.

*Enactments defining Corrupt Practices.—Enactments defining the Offence of Bribery.* Section 2.

The Corrupt Practices Prevention Act, 1854, 17 & 18 Vict. c. 102,  
sections 2 and 3.

S. 2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly:—

Bribery defined.

- (1.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as

47 & 48 Vict.  
c. 70.

Third Sched.

aforsaid on account of such voter having voted or refrained from voting at any election.

- (2.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.
- (3.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement, as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.
- (4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.
- (5.) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election: Provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election.

Bribery further  
defined.

S. 3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:—

- (1.) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.
  - (2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.
- The Representation of the People Act, 1867, 30 & 31 Vict. c. 102, s. 49.

Corrupt payment  
of rates to be  
punishable as  
bribery.

S. 49. Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly.

### *Enactment defining the Offence of Personation.*

The Ballot Act, 1872, 35 & 36 Vict. c. 33. s. 24.

Personation  
defined.

S. 24. A person shall, for all purposes of the laws relating to parliamentary and municipal elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

*Enactments defining the Offences of Treating and Undue Influence.*

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict.  
c. 51. ss. 1 and 2.

47 & 48 Vict.

c. 70.

Third Sched.

What is treating.

S. 1. Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision, shall also be guilty of treating.

S. 2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

What is undue influence.

*Enactment defining the Offences of Bribery, Treating, Undue Influence and Personation.*

The Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50. s. 77.

S. 77. "Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a municipal election, which, if done before, at, after, or with respect to a parliamentary election, would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections.

Definitions.

PART II.

*Enactments relating to Disqualification of Electors.*

Section 23.

The Corrupt and Illegal Practices Prevention Act, 1883, 46 & 47 Vict. c. 51,  
sections 37 and 38.

S. 37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

Prohibition of disqualified persons from voting.  
35 & 36 Vict. c. 60.  
45 & 46 Vict. c. 50.

S. 38. (1.) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court \* \* \* to have been guilty, at an election, of any corrupt or illegal practice, the court \* \* \* shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

Hearing of person before he is reported guilty of corrupt or illegal practice and incapacity of person reported guilty.

(5.) Every person who, after the commencement of this Act, is reported by any

47 & 48 Vict.  
c. 70.  
Third Sched.

election court \* \* \* to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty \* \* \*

(6.) Where a person who is a justice of the peace is reported by any election court \* \* \* to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to report the case to the Lord High Chancellor of Great Britain, with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being or having been a mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7.) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is reported by any election court \* \* \* to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8.) With respect to a person holding a license or certificate under the Licensing Acts (in this section referred to as a licensed person), the following provisions shall have effect :—

(a.) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses :

(b.) If it appears to an election court \* \* \* that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court \* \* \* (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same ; and, whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses :

(c.) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

\* \* \* \* \*

#### FOURTH SCHEDULE.

Section 21.

##### *Form of Declaration by Candidate as to Expenses.*

I \_\_\_\_\_, having been a candidate at the election of councillor for the borough [or ward] of \_\_\_\_\_, on the day of \_\_\_\_\_ [and my agents do hereby solemnly and sincerely declare that I have paid \_\_\_\_\_] for my expenses at the said election, and that, except as aforesaid, I have not, and to the best of my knowledge and belief, no person, nor any club, society, or association, has on my behalf, made any

payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that, except as aforesaid, no money, security, or equivalent for money, has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of myself, or any other person, for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant

C.D.

Signed and declared by the above-named declarant on the \_\_\_\_\_ day  
of \_\_\_\_\_, before me.

(Signed)

E.F.

Justice of the Peace for

## THE ALLOTMENTS ACT, 1887.

[50 & 51 VICT. CH. 48.]

*An Act to facilitate the provisions of Allotments for the Labouring Classes.*

[16th September, 1887.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

**SECT. 1.** This Act may be cited as the Allotments Act, 1887.

Short title.

**SECT. 2.**—(1.) On a representation in writing to the sanitary authority of any urban or rural district by any six registered parliamentary electors or ratepayers resident, in the case of an urban district, in that district, and, in the case of a rural district, in some parish in that district, that the circumstances of the urban district or parish are such that it is the duty of the sanitary authority to take proceedings under this Act therein, the sanitary authority shall take such representation into consideration.

Duty of sanitary authority to acquire land for allotments.

If the sanitary authority of any urban or rural district are of opinion, either after inquiry made in consequence of such representation or otherwise, that there is a demand for allotments for the labouring population in such urban district, or in any parish in such rural district, and that such allotments cannot be obtained at a reasonable rent and on reasonable conditions by voluntary arrangement between the owners of land suitable for such allotments and the applicants for the same, the sanitary authority, subject to the provisions of this Act, shall by purchase or hire acquire any suitable land which may be available, whether within or without their district or the said parish, adequate to provide a sufficient number of allotments, and shall let such land in allotments to persons belonging to the labouring population resident in the said district or parish and desiring to take the same.

(2.) A sanitary authority shall not under this Act acquire land for allotments save at such price or rent that in the opinion of the sanitary authority all expenses, except such expenses as are incurred in making roads to be used by the public, incurred by the sanitary authority in acquiring the land and otherwise in relation to the allotments may reasonably be expected to be recouped out of the rents obtained in respect thereof.

50 & 51 Vict.  
c. 48, s. 2.

For the purpose of this section, the expression "reasonable rent" means the rent, exclusive of rates, taxes, and tithe rentcharge which a person taking an allotment might reasonably be expected to pay, taking one year with another, to a landlord, having regard to the value of similar land in the neighbourhood, to the extent and situation of the allotment, to the expenses of adapting the land to the purposes of the allotment, and to the repairs and other outgoings payable by the landlord, and to the costs and risk of collecting the rents of, and otherwise managing allotments.

\* \* \* \* \*

Acquisition of  
land for purposes  
of Act.

### Sect 3.—(4.)

Provided that—

(a.) Any question of disputed compensation shall be referred to the arbitration of a single arbitrator appointed by the parties, or if the parties do not concur in the appointment of a single arbitrator, then, on the application of either of them, by the Local Government Board, and the remuneration to be paid to the arbitrator appointed by the Local Government Board shall be fixed by that Board :

(b.) If an arbitrator appointed for the purposes of this Act dies or becomes incapable to act before he has made his award, or fails to make his award within two months after he is appointed, his appointment shall determine, and the determination of the compensation shall be referred to another arbitrator appointed in like manner as if no arbitrator had been previously appointed : Provided always, that the same arbitrator may be re-appointed :

8 & 9 Vict. c. 18.

(c.) An arbitrator appointed under this section shall be deemed to be an arbitrator within the meaning of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same, and the provisions of those Acts with respect to an arbitration shall apply accordingly ; and, further, the arbitrator, notwithstanding anything in the said Acts, shall determine the amount of the costs and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily.

(5.) In construing for the purposes of this section any section or Acts incorporated with this section, this Act, together with any Act confirming a provisional order under this section, shall be deemed to be the special Act, and the sanitary authority shall be deemed to be the local authority or the promoters of the undertaking, as the case requires, and the word "land" shall have the same meaning as in this Act.

(6.) Where land is purchased by a sanitary authority under this Act otherwise than by agreement, the following provisions shall apply :

(a.) The county authority shall not make a provisional order for purchasing any park, garden, pleasure-ground, or other land required for the amenity or convenience of any dwelling-house, or any land the property of a railway or canal company which is or may be required for the purposes of the undertaking :

(b.) The county authority shall, in making a provisional order for purchasing land, have regard to the extent of land held in the neighbourhood by any owner and to the convenience of other property belonging to the same owner, and shall so far as is practicable avoid taking an undue or inconvenient quantity of land from any one owner.

(7.) For the purpose of the hiring of land by a sanitary authority for allotments, any person, or body of persons or body corporate authorised to sell land to the sanitary authority for the purposes of this Act may, without prejudice to any other power of leasing, lease land to the sanitary authority, without any fine or premium, for a term not exceeding thirty-five years.

(8.) The county authority shall not make a Provisional Order for purchasing any right to coal or metalliferous ore.

\* \* \* \* \*

Improvement  
and adaptation  
of land for  
allotments.

**Sect. 5.** The sanitary authority may improve any land acquired by them under this Act, and adapt the same for letting in allotments, by draining, fencing and

dividing the same, acquiring approaches, making roads, and otherwise, as they think fit, and may from time to time do such things as may be necessary for maintaining such drains, fences, approaches, and roads, or otherwise for maintaining the allotments in a proper condition.

50 & 51 Vict.  
c. 48, s. 5.

**Sect. 6.**—(1.) Subject to the provisions of this Act, the sanitary authority may from time to time make, revoke, and vary such regulations as appear to be necessary or proper for regulating the letting of allotments under this Act, and for preventing any undue preference in the letting thereof, and generally for carrying the provisions of this Act into effect; and such regulations may define the persons eligible to be tenants of such allotments, and the notices to be given for the letting thereof, and the size of the allotments, and the conditions under which they are to be cultivated, and the rent to be paid for them. Provided that all such regulations shall make provision for reasonable notice to be given to a tenant of any allotment of the determination of his tenancy. Provided also, that all regulations made under this section shall not be of any force unless and until they have been confirmed by the Local Government Board, in like manner and subject to the like provisions as in the case of byelaws under the Public Health Act, 1875.

Management of allotments.

(2.) All regulations for the time being in force under this section shall be binding on all persons whatsoever; and the sanitary authority shall cause them to be from time to time made known, in such manner as the sanitary authority think fit, to all persons interested, and shall cause a copy thereof to be given gratis to any inhabitant of the district or parish demanding the same.

33 & 39 Vict.  
c. 55.

(3.) Subject to the provisions of this Act the sanitary authority may from time to time appoint, and when appointed, remove allotment managers of land acquired under this Act for allotments, and such allotment managers shall consist either partly of members of such authority and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and contributing to the rate out of which the expenses under this Act are paid.

(4.) The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be prescribed from time to time by the sanitary authority: the allotment managers may be empowered by the sanitary authority to do anything in relation to the management of such allotments which the sanitary authority are authorised to do, and to incur expenses to such amount as the sanitary authority prescribe, and any expenses properly so incurred shall be deemed to be expenses of the sanitary authority under this Act.

**Sect. 7.**—(1.) The rents of the allotments shall be fixed at an amount not less than such as may reasonably be expected to ensure the sanitary authority from loss; but in calculating such loss any expenses incurred in an unsuccessful attempt to acquire land for allotments shall be excluded and, subject as aforesaid, such rents may be from time to time charged as are reasonable, having regard to the agricultural value of the land, and not more than a quarter's rent shall be required to be paid in advance in any case where it is deemed necessary by the sanitary authority to require the payment of rent in advance.

Provisions as to letting and use of allotments.

(2.) The sanitary authority shall, for the purposes of all rates, taxes, and tithe rentcharge, be deemed to be the occupiers of the allotments which are let, but they shall cause the sums from time to time paid by way of rates, taxes, and tithe rentcharge in respect of the allotments to be apportioned among them, and cause the sum so apportioned in respect of each allotment to be certified to the tenant thereof, and such sum shall be added to the rent otherwise payable by the said tenant in respect of such allotment, and shall be deemed to be part of such rent, and be recoverable accordingly: Provided always, that for the purposes of the parliamentary franchise, and the municipal and all other local franchises, the tenants shall be deemed to be the occupiers, and such rates to have been paid by them notwithstanding the provisions herein-before contained.

(3.) One person shall not hold any allotment or allotments acquired under this Act exceeding one acre, and an allotment shall not be sub-let.

(4.) Provided that if at any time any allotment cannot be let in accordance with

50 & 51 Vict.  
c. 48, s. 7.

the provisions of this Act and the regulations, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the sanitary authority to resume possession thereof within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

(5.) No building other than a toolhouse, shed, greenhouse, fowlhouse, or pigstye shall be erected on any part of any allotment, and if any building other than as aforesaid is so erected the sanitary authority shall forthwith pull down such building and sell and dispose of the materials thereof, and the proceeds of the sale shall be applicable in like manner as the rent of the allotment. If any building so allowed to be erected is erected upon an allotment, then at the end of the tenancy neither the sanitary authority nor the incoming tenant shall be bound to take any such building or pay any compensation therefor, but the outgoing tenant shall be at liberty, before the expiration of his tenancy, to remove the same, and if he fails so to do, the sanitary authority may pull down the building and dispose of the materials, and apply the proceeds in like manner as if it were a building prohibited to be erected.

(6.) A tenant of an allotment may, before the expiration of his tenancy, remove any fruit and other trees and bushes planted or acquired by him, for which he has no claim for compensation.

Recovery of rent  
and possession of  
allotments.

**Sect. 8.—**(1.) The rent for an allotment let in pursuance of this Act, and the possession of such allotment in the case of any notice to quit, or failure to deliver up possession of the same as required by law, may be recovered by the sanitary authority as landlords, in the like manner as in any other case of landlord and tenant.

(2.) If the rent for any allotment is in arrear for not less than forty days, or if it appears to the sanitary authority that the tenant of an allotment not less than three months after the commencement of the tenancy thereof has not duly observed the regulations affecting such allotment made by or in pursuance of this Act, or is resident more than one mile out of the district or parish for which the allotments are provided, the sanitary authority may serve upon the tenant, or if he is residing out of the district or parish, leave at his last known place of abode in the district or parish, or fix in some conspicuous manner on the allotment, a written notice determining the tenancy at the expiration of one month after the notice has been so served or affixed, and thereupon such tenancy shall be determined accordingly: Provided that in every such case the sanitary authority in default of agreement between the incoming and outgoing tenant shall on demand pay to the tenant whose tenancy is so determined any compensation due to him as an outgoing tenant; and such compensation shall be assessed by an arbitrator appointed by the sanitary authority, or, if the tenant so elect, either by an arbitrator appointed under the Allotments and Cottage Gardens Compensation for Crops Act, 1887, or by reference under the Agricultural Holdings (England) Act, 1883.

(3.) Upon the recovery of an allotment from any tenant, the court or justice directing the recovery may stay delivery of possession until payment of the compensation, if any, due to the outgoing tenant has been made or secured to the satisfaction of the court or justice.

50 & 51 Vict.  
c. 26.  
46 & 47 Vict.  
c. 61.

Election of  
allotment  
managers.

**Sect. 9.—**(1.) Where allotments have been provided under this Act for a parish in any rural district, a petition to the sanitary authority may be presented by a number of the electors of allotment managers in such parish, not being less than one sixth of the whole number of such electors, praying for the election of allotment managers in such parish, and thereupon the sanitary authority shall order such election, and the allotment managers so elected shall be the allotment managers of the allotments in such parish in lieu of allotment managers appointed by the sanitary authority, who, on an election under this Act, shall cease to hold office.

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**Sect. 11.—**(1.) Where the sanitary authority are of opinion that any land acquired by them in pursuance of this Act or any part thereof is no longer needed for the purpose of allotments, or that any other land more suitable for such purpose

Sale of  
superfluous or  
unsuitable land.



is available, they may, with the sanction of the county authority, sell or let such land or part, or exchange the same for other land more suitable for the said purpose, and may pay or receive money for equality of exchange.

(2.) The proceeds of a sale under this section and any money received by the sanitary authority on any such exchange as aforesaid by way of equality of exchange, shall be applied in discharging, either by way of a sinking fund or otherwise, the debts and liabilities of the sanitary authority in respect of the land acquired under this Act, or in acquiring, adapting, and improving other lands for allotments under this Act, and any surplus remaining may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board; and the interest thereon (if any) and any money received from the letting of the land may be applied in acquiring other land for allotments, or shall be applied in like manner as receipts from allotments under this Act are applicable: Provided that any such proceeds, surplus, interest, and money shall, in the case of a rural sanitary district, be credited to or applied for the benefit of the parish for which the land was purchased.

(3.) Sections one hundred and twenty-eight to one hundred and thirty-two (both inclusive) of the Lands Clauses Consolidation Act, 1845 (relating to the right of pre-emption of superfluous lands) shall apply upon any sale by a sanitary authority in pursuance of this section of any land, whether because it is no longer needed for the purpose of allotments, or because other land more suitable for the purpose is available, but save as aforesaid, the provisions of the Land Clauses Consolidation Act, 1845, with respect to the sale of superfluous lands shall not be deemed to be incorporated in this Act, or in any Provisional Order made under this Act.

**Sec. 12.** Where it appears to any sanitary authority that, as regards their district, if urban, or any parish in their district, if rural, land can be acquired for affording common pasture at such price or rent that all expenses incurred by the sanitary authority in acquiring the land and otherwise in relation to the land when acquired may reasonably be expected to be recouped out of the charges paid in respect thereof, and that the acquisition of such land is desirable in view of the wants and circumstances of the labouring population, such sanitary authority may submit to the county authority for the county in which the district or parish is wholly or partly situate a scheme for providing such common pasture, and the county authority, if satisfied of the expediency of such scheme, may by order authorise the sanitary authority to carry it into effect, and upon such order being made, this Act shall, with the necessary modifications, apply in like manner as if "allotments" in this Act included common pasture, and "rent" included a charge for turning out an animal.

Power to make  
scheme for  
provision of  
common pasture.

Provided that the regulations made under this Act may extend to regulating the turning out of animals on the common pasture, to defining the persons entitled to turn them out, the number to be turned out, and the conditions under which animals may be turned out, and fixing the charges to be made for each animal, and otherwise to regulating the common pasture.

\* \* \* \* \*

**Sec. 17.** In this Act, unless the context otherwise requires—  
The expression "allotment" includes a field garden.

Definitions.

The expressions "urban district" and "rural district" mean respectively an urban and rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "sanitary authority" means the urban sanitary authority of an urban sanitary district and the rural sanitary authority of a rural sanitary district within the meaning of the Public Health Act, 1875.

The expression "land" includes pasture, arable, and other land, and any right of way or easement.

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## THE LOCAL GOVERNMENT (ENGLAND AND WALES) ACT, 1888.

[51 &amp; 52 VICT. CH. 41.]

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**Sect. 11.**—(10.) The county council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road.

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Power to make  
Provisional  
Orders for Scilly  
Islands.

**Sect. 49.**—(1.) It shall be lawful for the Local Government Board to make a Provisional Order for regulating the application of this Act to the Scilly Islands, and for providing for the exercise and performance in those islands of the powers and duties both of county councils and also of authorities under the Acts relating to highways and the Public Health Act, 1875, and the Acts amending the same, and for the application to the islands of any provisions of any Act touching local government, and any such Order may provide for the establishment of councils and other local authorities separate from those in the county of Cornwall, and for the contribution by the Scilly Islands to the county council of Cornwall in respect of costs incurred by the county council for matters specified in the said Order as benefitting the Scilly Islands, and such Order may also provide for all matters which appear to the Local Government Board necessary or proper for carrying the Order into full effect.

(2.) Any such Order shall not be in force until it is confirmed by Parliament.

(3.) Subject to the provisions of a Provisional Order under this Act, the county council of Cornwall shall have no greater powers or duties in the Scilly Islands than the quarter sessions of Cornwall have hitherto in fact exercised or performed therein, and the Scilly Islands shall not be included for the purposes of this Act in any electoral division of the county of Cornwall.

\* \* \* \* \*

Future altera-  
tions of boun-  
daries.

**Sect. 54.**—(1.) Whenever it is represented by the council of any county or borough to the Local Government Board—

(a.) that the alteration of the boundary of any county or borough is desirable; or  
(b.) that the union, for all or any of the purposes of this Act, of a county borough with a county is desirable; or

(c.) that the union, for all or any of the purposes of this Act, of any counties or boroughs or the division of any county is desirable; or

(d.) that it is desirable to constitute any borough having a population of not less than fifty thousand into a county borough; or

(e.) that the alteration of the boundary of any electoral division of a county, or of the number of county councillors and electoral divisions in a county, is desirable; or

(f.) that the alteration of any area of local government partly situate in their county or borough is desirable.

the Local Government Board shall, unless for special reasons they think that the representation ought not to be entertained, cause to be made a local inquiry, and may make an order for the proposal contained in such representation, or for such other proposal as they may deem expedient, or may refuse such order, and if they make the order may by such order divide or alter any electoral division.

(2.) Provided that in default of such representation by the council of any county or borough before the first day of November, one thousand eight hundred and eighty-nine, the Local Government Board may cause such local inquiry to be made, and thereupon may make such order as they may deem expedient.

(3.) Provided that if the order alters the boundary of a county or borough, or provides for the union of a county borough with a county, or for the union of any

counties or boroughs, or for the division of any county, or for constituting a borough into a county borough, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(4.) Where such order alters the boundary of a borough, it may, as consequential upon such alteration, do all or any of the following things, increase or decrease the number of the wards in the borough, and alter the boundaries of such wards, and alter the apportionment of the number of councillors among the wards, and alter the total number of councillors, and in such case make the proportionate alteration in the number of aldermen.

(5.) At any time before the appointed day, the Local Government Board may make an order in pursuance of this section without any such representation as in this section mentioned.

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**Sect. 57.**—(1.) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things; that is to say—

- (a.) the alteration or definition of the boundary thereof;
- (b.) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;
- (c.) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;
- (d.) the division of an urban district into wards; and
- (e.) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

(2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

(3.) In any other case the order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.

(4.) If any such petition is not presented, or being presented is withdrawn, the Local Government Board shall confirm the order.

(5.) The Local Government Board, on confirming an order, may make such modifications therein as they consider necessary for carrying into effect the objects of the order.

(6.) An order under this section, when confirmed by the Local Government Board, shall be forthwith laid upon the table of both Houses of Parliament, if

51 & 52 Vict.  
c. 41, s. 54.

Future alteration  
of county districts  
and parishes and  
wards and future  
establishment of  
urban districts.

51 & 52 Vict.  
c. 41, s. 57.

Parliament be then sitting, and, if not, forthwith after the then next meeting of Parliament.

(7.) This section shall be in addition to, and not in derogation of, any power of the Local Government Board in respect of the union or division or alteration of parishes.

Additional  
power of Local  
Government  
Board as to  
unions.

**Sect. 58.** The Local Government Board, where it appears expedient so to do with reference to any poor law union which is situate in more than one county, instead of dissolving the union may by order provide that the same shall continue to be one union for the purposes of indoor paupers or any of those purposes, and shall be divided into two or more poor law unions for the purpose of outdoor relief, and may by the order make such provisions as seem expedient for determining all other matters in relation to which such union is to be one union or two or more unions.

Supplemental  
provisions as to  
alteration of  
areas.

**Sect. 59.**—(1.) A scheme or order under this Act may make such administrative and judicial arrangements incidental to or consequential on any alteration of boundaries, authorities, or other matters made by the scheme or order as may seem expedient.

(2.) A place which is part of an administrative county for the purposes of this Act shall, subject as in this Act mentioned, form part of that county for all purposes, whether sheriff, lieutenant, custos rotulorum, justices, militia, coroner, or others: Provided that—

(a.) Notwithstanding this enactment, each of the entire counties of York, Lincoln, Sussex, Suffolk, Northampton, and Cambridge shall continue to be one county for the said purposes so far as it is one county at the passing of this Act; and

(b.) This enactment shall not affect the existing powers or privileges of any city or borough as respects the sheriff, lieutenant, militia, justices, or coroner; but, if any county borough is, at the passing of this Act, a part of any county for any of the above purposes, nothing in this Act shall prevent the same from continuing to be part of that county for that purpose; and

(c.) This enactment shall not affect parliamentary elections nor the right to vote at the election of a member to serve in Parliament, nor land tax, tithes, or tithe rentcharge, nor the area within which any bishop, parson, or other ecclesiastical person has any cure of souls or jurisdiction.

(3.) For the purposes of parliamentary elections, and of the registration of voters for such elections, the sheriff, clerk of the peace, and council of the county in which any place is comprised at the passing of this Act for the purpose of parliamentary elections shall, save as otherwise provided by the scheme or order, or by the County Electors Act, 1888, or this Act, continue to have the same powers, duties, and liabilities as they would have had if no alteration of boundary had taken place.

(4.) Any scheme or order made in pursuance of this Act may, so far as may seem necessary or proper for the purposes of the scheme or order provide for all or any of the following matters, that is to say,—

(a.) may provide for the abolition, restriction, or establishment, or extension of the jurisdiction of any local authority in or over any part of the area affected by the scheme or order, and for the adjustment or alteration of the boundaries of such area, and for the constitution of the local authorities therein, and may deal with the powers and duties of any council, local authorities, quarter sessions, justices of the peace, coroners, sheriff, lieutenant, custos rotulorum, clerk of the peace and other officer therein, and with the costs of any such authorities, sessions, persons, or officers aforesaid, and may determine the status of any such area as a component part of any larger area, and provide for the election of representatives in such area, and may extend to any altered area the provisions of any local Act which were previously in force in a portion of the area; and

(b.) may make temporary provision for meeting the debts and liabilities of the

51 & 52 Vict. c. 10

various authorities affected by the scheme or order, for the management of their property, and for regulating the duties, position, and remuneration of officers affected by the scheme or order, and applying to them the provisions of this Act as to existing officers; and

(c.) may provide for the transfer of any writs, process, records, and documents relating to or to be executed in any part of the area affected by the scheme or order, and for determining questions arising from such transfer; and

(d.) may provide for all matters which appear necessary or proper for bringing into operation and giving full effect to the scheme or order; and

(e.) may adjust any property, debts, and liabilities affected by the scheme or order.

(5.) Where an alteration of boundaries of a county is made by this Act an order for any of the above-mentioned matters may, if it appears to the Local Government Board desirable, be made by that Board, but such order if petitioned against by any council, sessions, or local authority affected thereby, within three months after notice of such order is given in accordance with this Act, shall be provisional only, unless the petition is withdrawn or the order is confirmed by Parliament.

(6.) A scheme or order may be made for amending any scheme or order previously made in pursuance of this Act, and may be made by the same authority and after the same procedure as the original scheme or order. Where a provision of this Act respecting a scheme or order requires the scheme or order to be laid before Parliament, or to be confirmed by Parliament, either in every case or if it is petitioned against, such scheme or order may amend any local and personal Act.

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**SECT. 120.**—(1.) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

Compensation  
to existing  
officers.

(2.) Every person who is entitled to compensation, as above mentioned, shall deliver to the county council a claim under his hand setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.

5 & 6 Will. 4  
c. 62.

(3.) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any) and shall forthwith inform the claimant of their decision.

(4.) If a claimant is aggrieved by the refusal of the county council to grant any compensation, or by the amount of compensation assessed, or if not less than one-third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensa-

51 & 52 Vict.  
c. 41, s. 120.

tion, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

(5.) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.

(6.) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or, in case of appeal, by the Treasury, and shall be a speciality debt due to him from the county council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.

(7.) If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other county council, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.

(8.) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund, as a payment for general county purposes.

## THE ARBITRATION ACT, 1889.

[52 & 53 VICT. CH. 49.]

*An Act for amending and consolidating the Enactments relating to Arbitration.*

[26th August, 1889.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

### *References by Consent out of Court.*

Submission to be irrevocable, and to have effect as an order of court.

**Sect. 1.** A submission, unless a contrary intention is expressed therein, shall be irrevocable, except by leave of the Court or a judge, and shall have the same effect in all respects as if it had been made an order of Court.

Provisions implied in submissions.

**Sect. 2.** A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule to this Act, so far as they are applicable to the reference under the submission.

Reference to official referee.

**Sect. 3.** Where a submission provides that the reference shall be to an official referee, any official referee to whom application is made shall, subject to any order of the Court or a judge as to transfer or otherwise, hear and determine the matters agreed to be referred.

Power to stay proceedings where there is a submission.

**Sect. 4.** If any party to a submission, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission, or any person claiming through or under him, in respect of any

matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to that court to stay the proceedings, and that court or a judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

52 & 53 Vict  
c. 49, s. 4

**Sect. 5.** In any of the following cases :—

- (a) Where a submission provides that the reference shall be to a single arbitrator, and all the parties do not after differences have arisen concur in the appointment of an arbitrator :
- (b) If an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy :
- (c) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him :
- (d) Where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy :

Power for the court in certain cases to appoint an arbitrator, umpire, or third arbitrator.

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire, or third arbitrator.

If the appointment is not made within seven clear days after the service of the notice, the Court or a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire, or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties.

**Sect. 6.** Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention—

- (a) If either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place :
- (b) If, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent :

Power for parties in certain cases to supply vacancy.

Provided that the Court or a judge may set aside any appointment made in pursuance of this section.

**Sect. 7.** The arbitrators or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power—

- (a) to administer oaths to or take the affirmations of the parties and witnesses appearing ; and
- (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the Court ; and
- (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Power of arbitrator.

**Sect. 8.** Any party to a submission may sue out a writ of subpoena ad testificandum, or a writ of subpoena duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

Witnesses may be summoned by subpoena.

52 & 53 Vict.  
c. 49, s. 9.

Power to enlarge  
time for making  
award.

Power to remit  
award.

Power to set  
aside award.

Enforcing award

Reference for  
report.

Power to refer in  
certain cases.

Powers and  
remuneration  
of referees and  
arbitrators.

Court to have  
powers as in  
references by  
consent.  
Court of Appeal  
to have powers  
of court.

**Sect. 9.** The time for making an award may from time to time be enlarged by order of the Court or a judge, whether the time for making the award has expired or not.

**Sect. 10.**—(1.) In all cases of reference to arbitration the Court or a judge may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire.

(2.) Where an award is remitted, the arbitrators or umpire shall, unless the order otherwise directs, make their award within three months after the date of the order.

**Sect. 11.**—(1.) Where an arbitrator or umpire has misconducted himself, the Court may remove him.

(2.) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the award aside.

**Sect. 12.** An award on a submission may, by leave of the Court or a judge, be enforced in the same manner as a judgment or order to the same effect.

### *References under Order of Court.*

**Sect. 13.**—(1.) Subject to Rules of Court and to any right to have particular cases tried by a jury, the Court or a judge may refer any question arising in any cause or matter (other than a criminal proceeding by the Crown) for inquiry or report to any official or special referee.

(2.) The report of an official or special referee may be adopted wholly or partially by the Court or a judge, and if so adopted may be enforced as a judgment or order to the same effect.

**Sect. 14.** In any cause or matter (other than a criminal proceeding by the Crown),—

(a.) If all the parties interested who are not under disability consent ; or,

(b.) If the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a judge conveniently be made before a jury or conducted by the Court through its other ordinary officers ; or,

(c.) If the question in dispute consists wholly or in part of matters of account ; the Court or a judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or officer of the Court.

**Sect. 15.**—(1.) In all cases of reference to an official or special referee or arbitrator under an order of the Court or a judge in any cause or matter, the official or special referee or arbitrator shall be deemed to be an officer of the Court, and shall have such authority, and shall conduct the reference in such manner as may be prescribed by Rules of Court, and subject thereto as the Court or a judge may direct.

(2.) The report or award of any official or special referee or arbitrator on any such reference shall, unless set aside by the Court or a judge, be equivalent to the verdict of a jury.

(3.) The remuneration to be paid to any special referee or arbitrator to whom any matter is referred under order of the Court or a judge shall be determined by the Court or a judge.

**Sect. 16.** The Court or a judge shall, as to references under order of the Court or a judge, have all the powers which are by this Act conferred on the Court or a judge as to references by consent out of Court.

**Sect. 17.** Her Majesty's Court of Appeal shall have all the powers conferred by this Act on the Court or a judge thereof under the provisions relating to references under order of the Court.



*General.*52 & 53 Vict.  
c. 49, s. 18.

**Sect. 18.**—(1.) The Court or a judge may order that a writ of subpoena ad testificandum or of subpoena duces tecum shall issue to compel the attendance before an official or special referee, or before any arbitrator or umpire, of a witness wherever he may be within the United Kingdom.

Power to compel attendance of witness in any part of the United Kingdom and to order habeas corpus to issue.

(2.) The Court or a judge may also order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before an official or special referee, or before any arbitrator or umpire.

**Sect. 19.** Any referee, arbitrator, or umpire may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Statement of case pending arbitration.

**Sect. 20.** Any order made under this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just.

Costs.

**Sect. 21.** Provision may from time to time be made by Rules of Court for conferring on any master, or other officer of the Supreme Court, all or any of the jurisdiction conferred by this Act on the Court or a judge.

Exercise of powers by masters and other officers.

**Sect. 22.** Any person who wilfully and corruptly gives false evidence before any referee, arbitrator, or umpire shall be guilty of perjury, as if the evidence had been given in open court, and may be dealt with, prosecuted, and punished accordingly.

Penalty for perjury.

**Sect. 23.** This Act shall, except as in this Act expressly mentioned, apply to any arbitration to which Her Majesty the Queen, either in right of the Crown, or of the Duchy of Lancaster or otherwise, or the Duke of Cornwall, is a party, but nothing in this Act shall empower the Court or a judge to order any proceedings to which Her Majesty or the Duke of Cornwall is a party, or any question or issue in any such proceedings, to be tried before any referee, arbitrator, or officer without the consent of Her Majesty or the Duke of Cornwall, as the case may be, or shall affect the law as to costs payable by the Crown.

Crown to be bound.

**Sect. 24.** This Act shall apply to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorised or recognised by that Act.

Application of Act to references under statutory powers.

**Sect. 25.** This Act shall not affect any arbitration pending at the commencement of this Act, but shall apply to any arbitration commenced after the commencement of this Act under any agreement or order made before the commencement of this Act.

Saving for pending arbitrations.

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**Sect. 27.** In this Act, unless the contrary intention appears,—

“Submission” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

“Court” means Her Majesty’s High Court of Justice.

“Judge” means a judge of Her Majesty’s High Court of Justice.

“Rules of Court” means the Rules of the Supreme Court made by the proper authority under the Judicature Acts.

Definitions.

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52 &amp; 53 Vict.

C. 49.

First Sched.

## SCHEDULES.

## THE FIRST SCHEDULE.

*Provisions to be implied in Submissions.*

(a) If no other mode of reference is provided, the reference shall be to a single arbitrator.

(b) If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(c) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

(d) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(e) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

(f) The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings, and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

(g) The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

(h) The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

(i) The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

## THE ALLOTMENTS ACT, 1890.

[53 &amp; 54 VICT. CH. 65.]

*An Act to provide for an Appeal from a Sanitary Authority failing to carry into effect the Allotments Act, 1887.*

[18th August, 1890.]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

**Sect. 1.** This Act shall be construed as one with the Allotments Act, 1887 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Allotments Acts, 1887 and 1890, and this Act may be cited as the Allotments Act, 1890.

53 & 54 Vict.  
c. 65, s. 1.

Construction and short title.  
50 & 51 Vict.  
c. 48.

Appeal to county council by persons entitled to make representation to sanitary authority.  
45 & 46 Vict.  
c. 50.

**Sect. 2.**—(1.) Where such representation as is authorised by section 2 of the principal Act has been made to the sanitary authority with respect to any district or parish, not being within the limits of a borough as defined by the Municipal Corporations Act, 1882, and any six persons qualified to make such representation consider that the circumstances of the district or parish are such as to make it the duty of the sanitary authority to take proceedings under that Act therein, and that the sanitary authority have failed to acquire land adequate and suitable in quality and position to provide a sufficient number of allotments, such persons may petition the county council of the county in which such district or parish is situate, stating the facts and requesting the council to put into force the principal Act for the purpose of providing a sufficient number of allotments for the district or parish.

(2.) The council, if satisfied by the inquiry herein-after mentioned that the circumstances are such that land for allotments should be acquired, shall pass a resolution to that effect, and thereupon the powers and duties of the sanitary authority under the principal Act, so far as regards that district or parish, shall be transferred from the sanitary authority to the county council, and the county council, in substitution for the sanitary authority, shall proceed to acquire land in accordance with the principal Act, and otherwise execute that Act in the said district or parish.

Provided that this section shall not affect the property in, or any powers or duties of the sanitary authority in relation to, any land which before the passing of the said resolution was acquired by the sanitary authority under the principal Act.

**Sect. 3.**—(1.) For the purposes of this Act or the principal Act every county council, as soon as is conveniently practicable after the passing of this Act, and annually thereafter at the meeting for the election of chairman, shall appoint under the Local Government Act, 1888, a standing committee not exceeding one fourth of their whole body.

Standing Committee.

51 & 52 Vict.  
c. 41.

(2.) For the purpose of any business under this Act relating to any district or parish wholly or partly situate in an electoral division, the county councillor representing that division shall, if not already appointed, be an additional member of the committee.

(3.) Any petition under this Act shall as of course, and without any order of the council, be referred to the standing committee, who, on being satisfied of the bonafides of the application, shall forthwith cause a local inquiry into the circumstances to be made, and shall report the result to the council.

(4.) An inquiry under this Act or the principal Act shall be held by such one or more members of the standing committee, or such officer of the county council or other person as the standing committee may appoint to hold the same.

**Sect. 4.** Where the powers of the sanitary authority under the principal Act are, by virtue of this Act, transferred to the county council, the following provisions shall have effect :—

Supplemental provisions on council acquiring powers of sanitary authority.

(a) The principal Act shall apply with the modifications necessary for giving effect to this Act :

(b) The county council may borrow for the purposes of this Act subject to the conditions, in the manner, and on the security of the rate, subject to, in, and on the security of which the sanitary authority might have borrowed under the principal Act, if this Act had not been passed. The council shall have power to charge the said rate with the repayment of the principal and interest of the loan ; and such loan with the interest thereon shall be repaid by the sanitary authority in like manner, and such charge shall have the like effect as if the loan were lawfully raised and charged on that rate by the sanitary authority ;

53 & 54 Vict.  
c. 65, s. 4.  
—  
51 & 52 Vict.  
c. 41.  
33 & 30 Vict.  
c. 55.

- (c) The county council shall keep separate accounts of all receipts and expenditure under this Act, and, in the application of sub-section 6 of section 10 of the principal Act, the Local Government Act, 1888, shall be substituted for the Public Health Act, 1875 :
- (d) The county council may make a provisional order for the purchase of land on the recommendation of the standing committee, without any petition from the sanitary authority, and the council shall be considered as the promoters of the order :
- (e) The county council may delegate to the sanitary authority any powers under section six, section seven, or section eight of the principal Act (which sections relate to the management of the allotments, and the letting and use thereof, and the recovery of the rent and of possession thereof) ; and, subject to the terms of the delegation, all expenses and receipts arising in the exercise of the powers so delegated shall be paid and dealt with as expenses and receipts of the sanitary authority under the principal Act :
- (f) The county council, on the request of the sanitary authority, may, by order under their seal, transfer to that authority all or any of the powers, duties, property, and liabilities vested in and imposed on the council by virtue of this Act as regards the district of such authority or any part thereof, and the property so transferred shall be deemed to have been acquired by that authority under the principal Act, and that authority shall act accordingly.

Use of school-  
room free of  
charge

**Sect. 5.** Any room in a school receiving a grant out of moneys provided by Parliament may, except during ordinary school hours, be used free of charge for the purpose of an inquiry under this Act, or for the purposes of this Act by the county council or any committee appointed under this Act, or, with the consent of any two managers, for the purpose of holding public meetings to discuss any question relating to allotments under this Act or the principal Act, but any damage done to the room and any expense incurred by the person or persons having control over the room on account of its being so used shall be paid by the county council or by the persons calling the meeting.

Nothing in this section shall give any right to hold a public meeting in a school-room (a) unless not less than six days before the meeting a notice of the intention to hold the meeting on the day and at the time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation to the local authority under the principal Act, has been given, if the school is under a school board, to the clerk of the board, and in any other case to one of the managers of the school ; nor (b) if the use of the schoolroom on the said day and at the said time has previously to the receipt of the notice of the meeting been granted for some other purpose ; but in that case the clerk or manager, or some one on his behalf, shall forthwith after the receipt of the notice, inform in writing, one of the persons signing it that the use of the school has been so granted for some other purpose, and name some other day on which the schoolroom can be used for the meeting.

If the persons calling the meeting fail to obtain the use of a schoolroom under this section, they may appeal to the standing committee under this Act, and the committee shall forthwith decide the appeal and make such order respecting the use of the room as seems just.

Expenses

**Sect. 6.**—(1.) All expenses incurred by the county council in executing the principal Act or this Act in any district or parish on default of a sanitary authority, or incurred by the council in or incidentally to a local inquiry under this Act, shall be paid in the first instance out of the county fund as for general county purposes, and, unless defrayed out of moneys received by the council in respect of any land acquired under this Act otherwise than by sale or exchange, or out of money borrowed as before in this Act mentioned, shall when the powers and duties of the sanitary authority under the principal Act are transferred to the county council in

pursuance of this Act, be repaid to the county council as a debt by the sanitary authority.

53 & 54 Vict.  
c. 65, s. 6.

(2.) All sums payable by a sanitary authority in pursuance of this Act shall be defrayed in like manner as expenses under the principal Act are required to be defrayed, save that in the case of a rural authority they shall, with the exception of the principal and interest of any money borrowed, or the rent of any land hired by the county council be charged as general expenses.

(3.) All sums received by a county council in respect of any land acquired under this Act otherwise than from any sale or exchange, in so far as they are not required for the payment of expenses incurred by them in respect of such land, shall be paid to the sanitary authority, and in the case of a rural sanitary authority shall be credited to the parish on account of which the land was acquired.

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## *Appendix C.*

### ORDERS and CIRCULARS issued by the LOCAL GOVERNMENT BOARD.

24,683

LOCAL GOVERNMENT ACT, 1888.

(14th September, 1889.)

Regulations as to Inquiries and Notices under Section 57.

**To the County Councils** for the several  
ADMINISTRATIVE COUNTIES IN ENGLAND AND  
WALES ;—

And to all others whom it may concern.

WHEREAS by Sub-sections (1), (2), and (3) of Section 57 of the Local Government Act, 1888, it is enacted as follows :—

- “ 57.—(1.) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things, that is to say,—
- “ (a) the alteration or definition of the boundary thereof ;
  - “ (b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish ;
  - “ (c) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts ;
  - “ (d) the division of an urban district into wards ; and
  - “ (e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,
- “ the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.
- “ (2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards shall come into operation upon being finally approved by the county council.

Order.  
14th Sep., 89.

“(3.) In any other case the order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward, or if the order relates only to a parish, any number of county electors registered in that parish, not being less than one-sixth of the total number of electors in that parish, petition the Local Government Board to disallow the order, the Local Government Board shall cause to be made a local inquiry, and determine whether the order is to be confirmed or not.”  
And whereas by Sub-section (4) of Section 87 of the said Act it is enacted that—

“Where any matter is authorised or required by this Act to be prescribed, and no other provision is made, declaring how the same is to be prescribed, the same shall be prescribed from time to time by the Local Government Board.”

And whereas in regard to the matters required by the said Section 57 to be prescribed no provision other than that contained in the said Section 87 is made, declaring how such matters are to be prescribed :

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, do, by this Our Order, and until We shall otherwise Direct, Prescribe and Determine as follows, with respect to the Inquiries to be made and the notices to be given for the purposes of the said Section 57 of the Local Government Act, 1888, the manner of giving such notices, and the several other matters to be prescribed and determined for the purposes of the said Section ; that is to say,—

ARTICLE I.—(1.) Prior to any Order being made by a County Council in regard to a proposal for all or any of the things specified in Sub-section (1) of Section 57 of the Local Government Act, 1888, a local Inquiry, at which all persons interested may attend and be heard, shall be held in regard to the proposal as the Council may direct, either by a Committee of the County Council, or by some Person appointed by the County Council to hold such Inquiry.

(2.) If the proposal relate to one or more County Districts, the said Inquiry shall be held at some convenient place in such District or in one of such Districts ; and if the proposal relate to a Parish or Parishes, the said Inquiry shall be held either in such Parish or in one of such Parishes, or at such place in the neighbourhood as may, in the opinion of the Committee or Person by whom the Inquiry is to be held, be most convenient for the purpose.

(3.) Before the day when the Inquiry is to be held, public notice of the purport of the proposal, and of the day, time, and place fixed for the Inquiry in regard to it, shall be given by the County Council by advertisement in two successive weeks in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE II.—At least fourteen days before the day when the Inquiry is to be held, a printed Notice of the purport of the proposal, and of the day, time, and place for the Inquiry shall also be published in the manner herein-after described, and shall be sent to the several Government Departments and Local or other Authorities herein-after specified ; that is to say,—

- (1.) A copy of the said Notice shall be posted as a bill or placard in such places in the County District or Districts or Parish or Parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2.) In any case where the proposal relates to the alteration of or other dealing with any Sanitary District, a copy of the Notice shall be sent by the County Council to the Sanitary Authority of such District.
- (3.) In any case where the proposal relates to the alteration of or other dealing with any Parish a copy of the Notice shall be sent by the County Council to the Overseers of the Poor of such Parish ; to the Guardians of the Poor of

Order.  
14 Sep., 89.

the Union in which such Parish is comprised ; to the School Board (if any) for such Parish or for any part thereof ; to the Highway Authority or Authorities of the Parish ; to the Burial Board (if any) for such Parish or for any part thereof ; and to the Urban Sanitary Authority (if any) in whose district such Parish or any part thereof is comprised.

- (4.) A copy of the Notice shall be sent by the County Council to any Local Authority which, in the opinion of the County Council, is specially interested in the proposal.
- (5.) A copy of every such Notice shall be sent by the County Council to the Local Government Board ; and in any case where the proposal relates to all or any of the things mentioned in paragraphs (a), (b), and (c) of Sub-section (1) of Section 57 of the said Act, a copy of the Notice shall be sent by the County Council to the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, and to the Registrar General ; and in any case where the proposal relates to the alteration or definition of the boundary of any Parish a copy of the Notice shall be sent to the Education Department.

ARTICLE III.—Public notice of the provisions of any Order made by a County Council under Sub-section (1) of Section 57 of the said Act shall be given by the County Council by advertisement in two successive weeks in some local newspaper circulating in each District or Parish affected by the Order ; and the first of such advertisements shall be published within fourteen days after the making of the Order.

The said advertisement shall contain either a copy of the Order or a statement of the effect of the Order, and shall also contain a statement of the time and place or places during and at which copies of the Order may be inspected by any owner or ratepayer in any area affected by the Order during a period of one month from the date of the first publication of such advertisement, and the Order shall be open for such inspection during such period.

ARTICLE IV.—A copy of any Order made as aforesaid by a County Council shall, at any time while copies of the Order are open to inspection as aforesaid, and, in the case of an Order which requires to be confirmed by the Local Government Board, at any time before the confirmation of the Order by the Local Government Board, be supplied by the Clerk to the Council to any owner or ratepayer in any area affected by the Order, upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the Order be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the Order.

ARTICLE V.—On or before the date of the first publication of the advertisement in pursuance of Article III. hereof the provisions of any Order made as aforesaid, and, in the case of any such Order which does not require to be confirmed by the Local Government Board, one month at least before the Order is finally approved by the County Council under the said Sub-section (2) of Section 57 of the said Act, three copies of the Order shall be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article II. of this Order, required to be sent ; a copy of the Order shall also be sent to each of the Local or other Authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the Notice of the Inquiry was, in pursuance of the same Article, required to be posted.

ARTICLE VI.—The first advertisement in pursuance of Article III. hereof of the provisions of any Order made by a County Council under the said Sub-section (1) of Section 57 of the said Act shall be deemed to be the “first notice” for the purposes of Sub-section (3) of that Section.



ARTICLE VII.—The expression “County Council” in this Order shall include a Joint Committee appointed under Section 81 of the said Act by any County Councils of Administrative Counties for the purpose of dealing under Section 57 of the said Act with a matter in which such Councils are jointly interested.

Order.  
14 Sep., 89.

Given under the Seal of Office of the Local Government Board, this Fourteenth day of September, in the year One thousand eight hundred and eighty-nine.

L.S.

CHAS. T. RITCHIE,  
President.

HUGH OWEN,  
Secretary.

Circular.

To Guardians and Urban Sanitary Authorities  
other than Town Councils.

Local Government Board,  
Whitehall, S.W.,  
5th March, 1894.

**Local Government Act, 1894.**

SIR,

I am directed by the Local Government Board to draw attention to the provisions of the Local Government Act, 1894, which has this day received the Royal Assent, in so far as they affect the election of guardians and members of urban sanitary authorities during the present year.

Under the Act, urban and rural district councils will take the place of urban and rural sanitary authorities, and parishes in any rural district will be represented on the board of guardians by the persons elected as rural district councillors, guardians as such being only elected in parishes in urban districts.

The first elections under the Act of guardians and district councillors will be held on the 8th November next or on such later date or dates in the year 1894 as the Board may fix, and the persons elected will come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of rules made by the Board in relation to their election.

Upon the day on which the first guardians and urban or rural district councillors elected under the Act come into office, the persons who are then members of boards of guardians or urban or rural sanitary authorities will cease to hold office; but until that day the persons who at the passing of the Act were guardians or members of urban sanitary authorities for districts other than boroughs will continue in office notwithstanding any want of qualification, as if the term of office for which they were elected expired on that day, and except for the purpose of filling casual vacancies, or of electing additional guardians, where the number is increased, no further elections will be held.

Hence, the guardians and members of urban sanitary authorities who would have gone out of office in April next but for the passing of the Act, will continue in office until November and will then retire, and the elections which would otherwise have been held in April will not take place. No further steps, therefore, should be taken with a view to any such election.

I am, Sir,

Your obedient Servant,  
HUGH OWEN,  
Secretary.

The Clerk to the Guardians or  
Urban Sanitary Authority.

*Circular.*To Highway Boards in England and North Wales.

Local Government Board,  
Whitehall, S.W.,  
9th March, 1894.

**Local Government Act, 1894.**

SIR,

I am directed by the Local Government Board to draw the attention of the Highway Board to certain provisions of the Local Government Act, 1894.

District councils will under the Act be elected for rural districts, and will take the place of the present rural sanitary authorities.

Section 25 of the Act provides that there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authority. It is, however, enacted that the council of any county may by order postpone within their county, or any part thereof, the operation of this section, so far as it relates to highways, for a term not exceeding three years, or such further period as may, on the application of the county council, be allowed by the Board. The effect of this provision will be that the Highway Board will cease to exist on the day on which the first rural district councillors come into office, and the rural district council will thereupon become the highway authority, unless the county council postpone the operation of the section within their county or the part thereof comprising the district of the Highway Board.

Section 84 provides that the first elections of district councillors under the Act shall be held on the 8th November next, or on such later date or dates in the present year as the Board may fix, and that the persons elected shall come into office on the second Thursday after their election, or such other day not more than seven days earlier or later, as may be fixed by or in pursuance of the rules made by the Board under the Act in relation to the election of those councillors.

By section 79, persons who, at the passing of the Act, are members of highway boards are continued in office until the day on which the first rural district councillors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of waywardens will not take place in the present year.

An order under section 25 is, by section 84, to make such provision as may be necessary for holding elections of highway boards in the interval during which the operation of section 25 is postponed. This provision will enable the county council to give directions in their order for the election of waywardens in place of those who will cease to hold office as mentioned above, when the rural district councillors come into office, and also to order for what period such waywardens shall be elected, having regard to the period of postponement.

As regards the position of the officers of highway boards that will cease to exist under the Act, the Board direct me to state that section 81 provides that where the powers and duties of any authority other than justices are transferred by the Act to any district council, the officers of that authority shall become the officers of that council, and that every such officer shall hold his office by the same tenure, and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore. The section also provides that section 120 of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply in the case of existing officers affected by the new Act, as if references in the section to the county council were references to the authority whose officer the person affected is when the claim for compensation arises.

At the same time, the Board may draw the attention of the Highway Board to

sub-section (2) of section 86 of the Act, under which it will be the duty of every authority whose powers, duties, and liabilities are transferred by the Act to liquidate so far as practicable before the day on which the transfer takes effect, all current debts and liabilities incurred by the authority; and to sub-section (2) of section 85, under which the accounts of the Highway Board before that day will be audited in the same manner as if the Act had not passed, and for the purpose of the audit the Highway Board and their accounting officers will, until the audit is completed, be deemed to continue in office and be bound to perform the same duties and render the same accounts, and be subject to the same liabilities as before the transfer.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

To the Clerk to the Highway Board.

Circular.

To Highway Boards in South Wales.

Local Government Board,  
Whitehall, S.W.,  
12th March, 1894.

**Local Government Act, 1894.**

SIR,

I am directed by the Local Government Board to draw the attention of the Highway Board to certain provisions of the Local Government Act, 1894.

District councils will under the Act be elected for rural districts, and will take the place of the present rural sanitary authorities.

Section 25 of the Act provides that there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authority. It is, however, enacted that the council of any county may by order postpone within their county, or any part thereof, the operation of this section, so far as it relates to highways, for a term not exceeding three years, or such further period as may, on the application of the county council, be allowed by the Board. The effect of this provision will be that the Highway Board will cease to exist on the day on which the first rural district councillors come into office, and the rural district council will thereupon become the highway authority, unless the county council postpone the operation of the section within their county or the part thereof comprising the district of the Highway Board.

Section 84 provides that the first elections of district councillors under the Act shall be held on the 8th November next, or on such later date or dates in the present year as the Board may fix, and that the persons elected shall come into office on the second Thursday after their election, or such other day not more than seven days earlier or later, as may be fixed by or in pursuance of the rules made by the Board under the Act in relation to the election of those councillors.

By section 79, persons who, at the passing of the Act, are members of boards of guardians and of highway boards are continued in office until the day on which the first rural district councillors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of guardians will not take place in the present year. The effect of this enactment will be to continue in office the existing members of highway boards in South Wales until the day referred to.

As regards the position of the officers of highway boards that will cease to exist

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under the Act, the Board direct me to state that section 81 provides that where the powers and duties of any authority other than justices are transferred by the Act to any district council, the officers of that authority shall become the officers of that council, and that every such officer shall hold his office by the same tenure, and upon the same terms and conditions as heretofore, and while performing the same duties shall receive not less salary or remuneration than heretofore. The section also provides that section 120 of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply in the case of existing officers affected by the new Act, as if references in the section to the county council were references to the authority whose officer the person affected is when the claim for compensation arises.

At the same time, the Board may draw the attention of the Highway Board to sub-section (2) of section 86 of the Act, under which it will be the duty of every authority whose powers, duties, and liabilities are transferred by the Act to liquidate so far as practicable before the day on which the transfer takes effect, all current debts and liabilities incurred by the authority; and to sub-section (2) of section 85, under which the accounts of the Highway Board before that day will be audited in the same manner as if the Act had not passed, and for the purpose of the audit the Highway Board and their accounting officers will, until the audit is completed, be deemed to continue in office and be bound to perform the same duties and render the same accounts, and be subject to the same liabilities as before the transfer.

I am, Sir,  
Your obedient Servant,  
HUGH OWEN,  
Secretary.

To the Clerk to the Highway Board.

Circular.

To Metropolitan Vestries and District Boards  
and the Local Board of Woolwich.

Local Government Board,  
Whitehall, S.W.,  
19th March, 1894.

**Local Government Act, 1894.**

SIR,

I am directed by the Local Government Board to draw attention to certain provisions of the Local Government Act, 1894, affecting the Vestries and District Boards elected under the Metropolis Management Acts, and the Local Board of Woolwich.

Section 31 directs that the provisions of the Act with respect to the qualification of the electors of urban district councillors, and of the persons to be elected, and with respect to the mode of conducting the election, shall apply as if members of the local board of Woolwich, and the vestries elected under the Metropolis Management Acts, 1855 to 1890, or any Act amending those Acts, and the auditors for parishes elected under those Acts were urban district councillors. So far as respects the qualification of persons to be elected, the provisions referred to are also to apply as if members of the district boards under those Acts were urban district councillors; but in other respects the election of members of district boards will be conducted as heretofore.

Under the operation of section 31 of the new Act the electors of the members of the local board of Woolwich, of the vestries under the Metropolis Management Acts, and of the auditors elected under section 11 of the Metropolis

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Management Act, 1855, will be respectively the parochial electors of the parish of Woolwich and of the parishes for which vestries are elected. Where the area under the jurisdiction of any of the authorities mentioned is divided into wards, the electors for each ward will be such of the parochial electors as are registered in respect of qualifications within the ward. (Section 23 (3)). The expression "parochial elector" when used with reference to a parish in the county of London is defined by section 75 to mean any person who would be a parochial elector of the parish if it were a rural parish, and the parochial electors in a rural parish will under section 2 be the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish. Section 44 of the Act provides for the manner in which the register of the parochial electors of a parish is to be formed.

With respect to the persons to be elected as urban district councillors, it is provided by sub-section (2) of section 23 that a person shall not be qualified to be elected or to be a councillor unless he is a parochial elector of some parish within the district, or has during the whole of the twelve months preceding the election resided in the district, and no person shall be disqualified by sex or marriage for being elected or being a councillor. This provision is made applicable to members of the local board and the vestries and district boards, and to the auditors for parishes, by section 31 of the Act.

In connection with the qualification of persons to be elected, reference should be made to the provisions relating to the disqualification of a person for being elected or being a member of a district council, contained in section 46 of the Act, which by sub-section (9) is made applicable in the case of any authority whose members are elected in accordance with the Act, in like manner as if that authority were a district council, and in the case of London auditors as if they were members of a district council.

An election under the Act will be conducted according to rules to be framed by the Local Government Board. (Section 23 (5) and section 48). If there is a poll it will have to be taken by ballot.

Copies of the rules for regulating the elections will be forwarded to you when they are issued.

The expenses of any election under the Act are not to exceed the scale fixed by the county council, but if at the beginning of one month before the first election the county council have not framed a scale, the Board may do so, and the scale thus framed will apply to the first election and will have effect as if it had been made by the county council. (Section 48 (7)).

The Elections (Hours of Poll) Act, 1885, will apply to elections of members of vestries under the Metropolis Management Acts. (Section 31 (1)).

Sub-section (5) of section 48 provides that if any difficulty arises as respects the election of any individual member of the local board, or vestry, or auditor, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

The Act also provides that if any difficulty arises with respect to the holding of the first election of members of the local board or any vestry, or of auditors, or to the first meeting of the local board or vestry, or if, from no election being held or an election being defective or otherwise, the first local board or vestry has not been properly constituted or there are no auditors under the Metropolis Management Acts, 1855 to 1890, or an insufficient number, properly elected, the county council may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of any such first election and properly constituting the local board, or vestry or auditors, and may, if it appears to them necessary, direct the holding of a meeting or election, and fix the dates for any such meeting or election. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it, so far as may appear to the county council necessary or expedient for carrying the order into effect. (Section 80 (1)).

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Section 84 provides that the first elections under the Act shall be held on the 8th of November next, or such later date or dates in the present year as the Board may fix, and that the persons elected shall come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of the rules made by the Board under the Act in relation to their election.

By Section 79 persons who, at the passing of the Act, are members of the local board and of any vestry under the Metropolis Management Acts, or are auditors under those Acts, are continued in office until the day on which the first members and auditors elected under the Act come into office, as if the term of office for which they were elected expired on that day, and consequently the usual annual election of such members and auditors respectively will not take place until the day appointed for the first elections under the Act. Under sub-sections (3) and (10) of the section, the first annual retirement of members of the local board and vestries first elected under the Act will take place at the date of the annual election in the year 1896; and sub-section (6) provides how the members who are to retire in 1896 and 1897, respectively, are to be determined. Except as regards the present year, the dates for the annual elections will not be altered by the Act; but, as indicated above, there will be no annual election in 1895.

The existing local board and the existing vestries are required to take the necessary measures for the conduct of the first elections under the Act of members of the local board and of the vestries respectively, including any appointment of returning officers required by rules made by the Board under the Act. (Section 79 (1) and (10)).

After the vestrymen first elected under the Act come into office, no person is *ex-officio* to be chairman of any of the vestries under the Metropolis Management Acts (section 31 (1)), but each of the vestries, except those electing district boards, and each of the district boards and the local board of Woolwich must, at their first meeting after the annual election of members, elect a chairman for the year, and the chairman so elected will, unless a woman or personally disqualified by any Act, be by virtue of his office a justice of the peace for the county of London, but before acting as such justice he must, if he has not already done so, take the oaths required by law to be taken by a justice of the peace, other than the oath respecting the qualification by estate. (Sections 22 and 31 (2)).

The provisions of section 41 of the Metropolis Management Act, 1855, enabling a district board to elect a chairman of the meeting, will apply only in the case of the absence of the chairman of the district board elected under the new Act. (Section 31 (2)).

Nothing in any local and personal Act is to prevent any vestry in the county of London from holding its meeting at such time as may be directed by the vestry. (Section 31 (3)).

Certain provisions of the Metropolis Management Acts which are inconsistent with or are superseded by the provisions above referred to, are repealed by section 89 and the Second Schedule to the new Act.

I am, Sir,  
Your obedient Servant,  
HUGH OWEN,  
Secretary.

The Clerk to the Vestry or District Board  
or to the Local Board of Woolwich.

30,868

LOCAL GOVERNMENT ACT, 1888,

and

LOCAL GOVERNMENT ACT, 1894.

(22nd March, 1894.)

Regulations as to Inquiries and Notices during 1894.

**To the County Councils** for the several  
ADMINISTRATIVE COUNTIES in ENGLAND and  
WALES ;—

And to all others whom it may concern.

WHEREAS by sub-sections (1), (2), and (3) of Section 57 of the Local Government Act, 1888, it is enacted as follows :—

“(1.) Whenever a county council is satisfied that a *prima facie* case is made out as respects any county district not a borough, or as respects any parish, for a proposal for all or any of the following things; that is to say,—

“(a) the alteration or definition of the boundary thereof;

“(b) the division thereof or the union thereof with any other such district or districts, parish or parishes, or the transfer of part of a parish to another parish;

“(c) the conversion of any such district or part thereof, if it is a rural district, into an urban district, and if it is an urban district, into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts;

“(d) the division of an urban district into wards; and

“(e) the alteration of the number of wards, or of the boundaries of any ward, or of the number of members of any district council, or of the apportionment of such members among the wards,

“the county council may cause such inquiry to be made in the locality, and such notice to be given, both in the locality, and to the Local Government Board, Education Department, or other Government department as may be prescribed, and such other inquiry and notices (if any) as they think fit, and if satisfied that such proposal is desirable, may make an order for the same accordingly.

“(2.) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner, and otherwise as the county council think fit, and if it relates to the division of a district into wards, or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, shall come into operation upon being finally approved by the county council.

“(3.) In any other case the order shall be submitted to the Local Government Board; and if within three months after such notice of the provisions of the order as the Local Government Board determine to be the first notice, the council of any district affected by the order, or any number of county electors registered in that district or in any ward of that district, not being less than one-sixth of the total number of electors in that district or ward,

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“or if the order relates only to a parish, any number of county electors  
“registered in that parish, not being less than one-sixth of the total number  
“of electors in that parish, petition the Local Government Board to disallow  
“the order, the Local Government Board shall cause to be made a local  
“inquiry, and determine whether the order is to be confirmed or not.”

And whereas by sub-section (4) of Section 87 of the said Act it is enacted that—

“Where any matter is authorised or required by this Act to be prescribed,  
“and no other provision is made, declaring how the same is to be prescribed,  
“the same shall be prescribed from time to time by the Local Government  
“Board.”

And whereas We, the Local Government Board, by an Order dated the 14th day of September, 1889, prescribed certain Regulations with respect to the Inquiries to be made and the Notices to be given for the purposes of the said Section 57 of the Local Government Act, 1888, the manner of giving such Notices and the several other matters to be prescribed and determined for the purposes of the said Section ;

And whereas by Part III. of the Local Government Act, 1894, power is given to County Councils to make various Orders in relation to areas and boundaries and other matters as therein mentioned ;

And whereas by sub-sections (10) and (11) of Section 36 of the said Act, which is included in Part III. thereof, it is enacted that—

“(10.) Subject to the provisions of this Act, any order made by a county council in pursuance of this Part of this Act shall be deemed to be an order  
“under section fifty-seven of the Local Government Act, 1888, and any board  
“of guardians affected by an order shall have the same right of petitioning  
“against that order as is given by that section to any other authority.

“(11.) Where any of the areas referred to in section fifty-seven of the Local Government Act, 1888, is situate in two or more counties, or the alteration  
“of any such area would alter the boundaries of a poor law union situate in  
“two or more counties, a joint committee appointed by the councils of those  
“counties shall, subject to the terms of delegation be deemed to have and  
“to have always had power to make orders under that section with respect to  
“that area ; and where at the passing of this Act a rural sanitary district  
“or parish is situate in more than one county a joint committee of the  
“councils of those counties shall act under this section.”

And whereas by Section 41 of the said Act it is enacted that—

“The time for petitioning against an order under section fifty-seven of the  
“Local Government Act, 1888, shall be six weeks instead of three months  
“after the notice referred to in sub-section three of that section.”

And whereas by sub-section (2) of Section 80 of the said Act it is enacted that—

“The Local Government Board shall make regulations for expediting and  
“simplifying the procedure under section fifty-seven of the Local Government  
“Act, 1888, in all cases in the year One thousand eight hundred and ninety-  
“four, for the purpose of bringing this Act into immediate operation, and  
“such regulations may dispense with the final approval of an order by the  
“county council in cases where the prescribed notice of the proposed order  
“has been given before it is made by the county council.”

And whereas by section 75 of the said Act it is enacted that, in that Act, unless the context otherwise requires, the expression “prescribed” means prescribed by Order of the Local Government Board ;

And whereas by Section 83 of the said Act it is enacted that a County Council may delegate their powers under the Act to a Committee :

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, by this Our Order make the Regulations following for expediting and simplifying the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the said Local Government Act, 1894,



into immediate operation, and do Prescribe and Determine as follows : that is to say—

ARTICLE I.—This Order shall, unless We shall otherwise direct, regulate the procedure under Section 57 of the Local Government Act, 1888, in all cases, in the year One thousand eight hundred and ninety-four, for the purpose of bringing the Local Government Act, 1894, into immediate operation, except cases in which Notice of a local Inquiry has been given before the date of this Order : and the said Order dated the Fourteenth day of September, One thousand eight hundred and eighty-nine, shall not apply in any case to which this Order applies.

ARTICLE II.—(1.) A local Inquiry, at which all persons interested may attend and be heard, shall, prior to any Order being made by a County Council under Section 57 of the Local Government Act, 1888, be held in regard to the proposal, either by a Committee of the County Council, or by some Person appointed by the County Council to hold such Inquiry, as the Council may direct.

(2.) The said Inquiry shall, unless the County Council otherwise determine, be held at some convenient place in the County District, or in one of the County Districts, proposed to be dealt with, or in the County District within which is situate the Parish, or one of the Parishes, proposed to be dealt with, or at such place in the neighbourhood as may, in the opinion of the Committee or Person by whom the Inquiry is to be held, be most convenient for the purpose.

(3.) At least ten days before the day when the Inquiry is to be held, public Notice of the purport of the proposal, and of the day, time, and place fixed for the Inquiry in regard to it, shall be given by the County Council by advertisement in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE III.—At least ten days before the day when any such local Inquiry is to be held, a printed notice of the purport of the proposal, and of the day, time, and place for the Inquiry shall also be published in the manner herein-after prescribed, and shall be sent to the several Government Departments and Local or other Authorities herein-after specified ; that is to say,—

(1.) A copy of the said Notice shall be posted as a bill or placard in such places in the County District or Districts or Parish or Parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.

(2.) In any case where the proposal relates to the alteration of or other dealing with any Sanitary District, a copy of the notice shall be sent by the County Council to the Sanitary Authority of such District.

(3.) In any case where the proposal relates to the alteration of or other dealing with any Parish a copy of the Notice shall be sent by the County Council to the Overseers of the Poor of such Parish ; to the Guardians of the Poor of the Union in which such Parish is comprised ; to the School Board (if any) for such Parish or for any part thereof ; to the Highway Authority or Authorities of the Parish ; to the Burial Board (if any) for such Parish or for any part thereof ; and to the Urban Sanitary Authority (if any) in whose district such Parish or any part thereof is comprised.

(4.) A copy of the Notice shall be sent by the County Council to any Local Authority which, in the opinion of the County Council, is specially interested in the proposal.

(5.) A copy of every such Notice shall be sent by the County Council to the Local Government Board ; and in any case where the proposal relates to the alteration of any area of local government a copy of the Notice shall be sent by the County Council to the Board of Agriculture, the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, and to the Registrar General ; and in any case where the proposal relates to the alteration or definition of the boundary of any parish a copy of the Notice shall be sent to the Education Department.

ARTICLE IV.—(1.) If the case is one in which any Order made by a County Council under Section 57 of the Local Government Act, 1888, requires confirmation by the Local Government Board, public Notice of the provisions of any such

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Order.  
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22 Mar., 94.

Order made by a County Council shall be given by the County Council by advertisement in some local newspaper circulating in each District or Parish affected by the Order; and such advertisement shall be published within ten days after the making of the Order.

(2.) If the case is one in which any Order made by a County Council under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, public notice of the proposed Order shall, after the Inquiry required by Article II. hereof has been held, and not less than twenty-one days before the Meeting of the County Council at which the Order is proposed to be made, be given by the Clerk to the County Council by advertisement in some local newspaper circulating in each District affected by the Order.

(3.) Any advertisement issued in pursuance of this Article shall contain either a copy of the Order, or proposed Order, as the case may be, or a statement of the effect of the Order, or proposed Order, and shall also contain a statement of the time and place or places during and at which copies of the Order, or proposed Order, may be inspected by any owner or ratepayer in any area affected by the Order, or proposed Order, during a period of fourteen days from the date of the publication of such advertisement, and the Order, or proposed Order, shall be open for such inspection during such period.

(4.) There shall be appended to any proposed Order or Statement of a proposed Order advertised or deposited for inspection in pursuance of this Article, a Notice to the effect that any person interested in the proposed Order who objects thereto may attend and be heard at a Meeting of the County Council to be held on a day and at a time which shall be mentioned in the Notice if, not less than three days before the date of the Meeting, he sends to the Clerk of the Council a statement in writing of the nature of his objection.

ARTICLE V.—(1.) A copy of any Order made or proposed to be made by a County Council as aforesaid shall, at any time while copies of the Order, or proposed Order, are open to inspection as aforesaid, and in the case of an Order which requires to be confirmed by the Local Government Board, at any time before the expiration of six weeks from the publication of the advertisement in pursuance of Article IV. (1.) hereof, be supplied by the Clerk to the County Council to any owner or ratepayer in any area affected by the Order, or proposed Order, upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the Order, or proposed Order, be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the Order, or proposed Order.

(2.) A copy of a proposed Order supplied in pursuance of this Article shall contain a Notice to the effect specified in Article IV. (4.) hereof.

ARTICLE VI.—On or before the date of the publication in pursuance of Article IV. (1.) hereof of the advertisement of the provisions of any Order made as aforesaid and requiring confirmation by the Local Government Board, three copies of the Order shall be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article III. hereof, required to be sent; a copy of the Order shall also be sent to each of the Local or other Authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the Notice of the Inquiry was, in pursuance of the same Article, required to be posted.

ARTICLE VII.—The advertisement in pursuance of Article IV. (1.) hereof of the provisions of any Order made by a County Council under Section 57 of the Local Government Act, 1888, and requiring confirmation by the Local Government Board, shall be deemed to be the “first notice” for the purposes of Sub-section (3) of that Section as amended by Section 40 of the Local Government Act, 1894.

ARTICLE VIII.—(1.) If the case is one in which any Order made under Section 57 of the Local Government Act, 1888, does not require confirmation by the Local Government Board, a copy of the proposed Order shall, on or before the date of

the publication in pursuance of Article IV. (2.) hereof of the advertisement of the provisions of the proposed Order, be sent to each of the Local or other Authorities to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article III. hereof required to be sent, and a copy shall also be posted in like manner as the Notice of the Inquiry was, in pursuance of the same Article, required to be posted.

(2.) Any such copy shall contain a notice to the effect specified in Article IV. (4.) hereof.

(3.) The final approval of the County Council of any such Order may be dispensed with, if the requirements of Article IV. hereof and of this Article have been complied with.

(4.) When any such Order has been made by a County Council three copies thereof shall forthwith be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry was required by Article III. hereof to be sent, and a copy of the Order shall also be at the same time sent to each of the Local or other Authorities to whom a copy of such Notice was so required to be sent.

ARTICLE IX.—The expression “County Council” in this Order shall include a Committee to whom the County Council have delegated their powers under the Local Government Act, 1894, and also a Joint Committee appointed by any County Councils of Administrative Counties for the purpose of dealing with any case or cases in which such Councils are jointly interested, and, in any such last-mentioned case, references in this Order to the County shall be deemed to refer to either of the Counties interested, and references to the Clerk to the County Council to any person acting as Clerk to the Joint Committee or appointed by such Committee to discharge the duties of the Clerk to a County Council under this Order.

Given under the Seal of Office of the Local Government Board, this Twenty-second day of March, in the year One thousand eight hundred and ninety-four.

G. SHAW LEFEVRE,

*President.*

HUGH OWEN,  
*Secretary.*

Circular.

To County Councils, except the London County Council.

Local Government Board,  
Whitehall, S.W.,  
24th March, 1894.

**Local Government Act, 1894.**

SIR,

I am directed by the Local Government Board to draw the attention of the County Council to certain provisions of the Local Government Act, 1894, and especially to those under which powers and duties will devolve on the County Council for the purpose of bringing the Act into operation within the county.

Every parish in a rural sanitary district, and in the case of a parish which is partly within a rural sanitary district, the part within such district will be for the purposes of the Act a rural parish. For every rural parish there will be a parish meeting, and for every rural parish which according to the census of 1891 has a population of 300 or upwards there will be a parish council, which will be elected by the parliamentary and county electors registered in the portions of the parliamentary and county registers relating to the parish. The parish meeting will consist of these persons, who are in the Act described as the parochial electors.

It is not necessary for the present purpose to set out all the powers which will be possessed by a parish council, but in connection with the duties that will

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devolve on the county council, it may be noticed that most of the powers of the vestry, in other than ecclesiastical affairs, will be transferred to the parish council, and that where the Lighting and Watching Act, 1833, the Baths and Washhouses Acts, 1846 to 1882, the Burial Acts, 1852 to 1885, the Public Improvements Act, 1860, and the Public Libraries Act, 1892, or any of these Acts (which are referred to as the adoptive Acts), have been put in force in a rural parish before the parish council come into office, that council will be the authority for executing the Acts, if they are in force in the whole of the parish. Section 53 of the Act provides means whereby the parish council may become such authority in a case where the Acts are in force in part of the parish only.

The Act makes important alterations in the qualification, mode of election, and retirement of guardians, and confers on county councils new powers in relation to certain matters connected with this subject, which will be explained in a later part of this circular.

Urban sanitary authorities will as from the appointed day be called urban district councils, and their districts will be called urban districts, but the style or title of a town council will not be altered. The mode of election of urban district councillors will, except in a borough, differ from that at present in force, and certain powers are given to county councils in connection with the retirement of urban district councillors. These will be referred to hereafter.

For every existing rural sanitary district wholly comprised in one county there will be a rural district council, whose district will be called a rural district, and where a rural sanitary district is situate in more than one county, such portion of it as is situate in each county will, save as otherwise provided in pursuance of the Act, or of any other Act, be as from the appointed day a rural district. District councillors will be elected for every parish or other area for the election of guardians in a rural district. They will be elected by the parochial electors, and will be the representatives of that parish or area on the board of guardians, and guardians as such will not be elected for that parish or area.

The provisions of the Act with respect to the qualification, election, term of office, and retirement of guardians will apply to rural district councillors. Hence the powers of the county council in relation to these matters, so far as guardians are concerned, will apply in the case of rural district councillors also.

Rural district councils will be substituted for rural sanitary authorities, and will have all the powers and duties of those authorities. They will have certain new powers and duties under the Act, but except in connection with highways, it is unnecessary to draw the attention of the county council to any of these powers or duties. The provisions as to highways are dealt with in a later part of this circular.

The provisions which should first receive the attention of the county council are those contained in Part III. of the Act, which relate to areas and boundaries.

The Act contemplates that every parish and, as a general rule, every rural district shall be wholly within one administrative county, and that, also as a general rule, every parish shall be wholly within one rural or urban district. With a view to secure this result, and to provide for the settling of incidental administrative arrangements consequent on the alterations of areas which are made by the Act itself, very important duties have been imposed on county councils.

Section 83 makes it the duty of every county council to exercise all such of their powers as may be requisite for bringing the Act into full operation within their county as soon as may be after the passing of the Act.

The first elections under the Act are to be held on the 8th November next, or such later date or dates in the present year as the Board may fix, and the persons elected are to come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of rules made by the Board under the Act in relation to their election. (Section 84.) It is important that alterations which may affect the preparation of the lists of voters should be made sufficiently

early to enable the lists to be properly prepared, and it is consequently provided by sub-section (3) of section 84 that every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if parishes or parts for which the registers of parochial electors will be made are affected, be made, so far as practicable, before the 1st of July next.

Many of the provisions of the Act referred to in this circular are to take effect from the "appointed day." Subject as mentioned in the Act, this day, for the purpose of elections, is defined as the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purposes of giving notices or doing other acts preliminary to such elections, and for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not specifically mentioned, it will be the day on which the members first elected come into office.

The powers and duties of county councils, so far as they may have to be exercised either before or in connection with the first elections may be classified under the following heads:—I.—Areas and Boundaries. II.—Parish Councils. III.—Guardians and District Councillors. IV.—Highways. V.—Miscellaneous.

#### I.—AREAS AND BOUNDARIES.

Sub-section (1) of section 36 provides as follows:—

For the purpose of carrying this Act into effect in the case of—

- (a) every parish and rural sanitary district which at the passing of this Act is situate partly within and partly without an administrative county; and
  - (b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district; and
  - (c) every rural parish containing a population of less than 200; and
  - (d) every rural sanitary district which at the passing of this Act has less than five elective guardians capable of acting and voting as members of the rural sanitary authority of the district; and
  - (e) Every rural parish which is co-extensive with a rural sanitary district;
- every county council shall forthwith take into consideration every such case within their county; and whether any proposal has or has not been made as mentioned in section 57 of the Local Government Act, 1888, shall as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect the present Act in accordance with the following provisions namely:—

- (i.) The whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;
- (ii.) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and
- (iii.) Every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

By sub-section (11) of section 36 it is provided that, where at the passing of the Act a rural sanitary district or parish is situate in more than one county, a joint committee of the councils of the several counties comprising the district or parish shall act under the section. The appointment by each county council of representatives on the joint committee is to be made within two months after request from any other of the councils interested. If any of the councils fail to appoint members of the committee within that period, the members actually appointed are to act. Any question relating to the constitution or procedure of the joint committee as to which the councils concerned are unable to agree, is to be determined by the Board.

The first case mentioned in section 36 is that of a parish in more than one administrative county. In many instances of this kind the rural district will also be in more than one county, and the Board have dealt with them later on, in their remarks on cases where the rural district is so situate.

The county council will also have to consider the case of any parish which is not

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wholly contained within one sanitary district, and these cases include some in which the parish is in more than one county also. If at the passing of the Act, a parish is partly within and partly without a rural sanitary district, that is to say, is partly in such a district and partly in an urban district, and no action is taken by the county council prior to the appointed day, the parish will as from that date be divided by the Act, the part within the rural district and the part without being constituted separate parishes by sub-section (3) of section 1.

Where the part outside the rural district is comprised in more than one urban district, the provisions of sub-section (2) of section 36 referred to below will apply to it.

If the rural part of the parish is deemed too small to form a separate parish, the county council should consider whether it could properly be united with some other rural parish. It would, however, be competent to the county council, if the circumstances justified it, by an order under section 57 of the Act of 1888, to extend any urban district, not being a borough, containing part of the parish, so as to include the rural part of the parish.

If a parish is situate in two or more urban districts, the part in each urban district will, unless the county council otherwise direct, and subject to any alteration of area made by or in pursuance of the new Act or of any other Act, become as from the appointed day, a separate parish. (Section 36 (2).) The county council can either alter the boundary between the urban districts, if neither of them is a borough, so as to include the whole parish within one district, or direct that the parish and urban districts shall remain unaltered, but the latter course would be opposed to the general scheme of the Act, and can only properly be adopted where there are special reasons for it. These observations apply equally to the urban part of a parish situate partly in a rural and partly in two or more urban districts. In any case, such as those mentioned above, where the parish is situated partly in a borough, the boundary of the borough could be altered by an order of the Board under section 54 of the Local Government Act, 1888. The county council or a joint committee could not properly make an order which would place or leave a parish in more than one county. It would be inconsistent with the Local Government Act, 1888, that an urban district should be in more than one county.

Where a parish is divided by the Act into two or more new parishes, sub-section (9) of section 36 directs that those parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was included, and sub-section (1) of section 79 directs that, subject to any order made by the county council, there shall be one guardian, and in the case of a new parish in a rural district, one district councillor for each of the new parishes. Many of the parishes which will be divided by the Act are at present entitled to more than two guardians, and not only in these cases, but in every other to which the above provision applies, the county council may be called upon to make an order as to the future representation of the new parishes.

The county council will have power to give names to the new parishes formed by the Act, although no order for any alteration of area has been made by them. (Section 55 (2).)

It is provided by sub-section (11) of section 79 of the new Act that the overseers of any parish divided by the Act shall, until the first appointment of overseers next after the appointed day, continue in office as if they were overseers of each part of the parish, which by reason of such division becomes a separate parish.

The case of parishes with a population under 200 is dealt with under the head of Parish Councils.

It is to be observed that when parishes are divided, and new parishes are constituted by the Act, whether under section 1 (3) or section 36 (2), they are to be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same. The formation of parishes under the Acts referred to has no effect as regards the constitution of school districts without the sanction of the Education Department.

Taking next the case of the rural sanitary districts situate in more than one county, the Act provides that where any such district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each administrative county shall be as from that day a rural district, save as otherwise provided by or in pursuance of this or any other Act. (Section 24 (5).) Unless, therefore, as regards any particular rural sanitary district not wholly comprised within one county, a joint committee of the county councils interested for special reasons otherwise direct, the district will be divided by the Act.

In a case where a rural sanitary district is in more than one county, but none of the parishes in the district overlap the boundary of any county, the first question for consideration will be whether any special reasons exist for directing that the district shall not be divided in the manner contemplated by sub-section (5) of section 24. The Act does not define what special reasons may be regarded as sufficient for interfering with the operation of that section, and the discretion of the joint committee of the county councils is, therefore, unfettered in that respect. If it is considered that there are special reasons for not dividing the district, but it is deemed expedient that the boundary between the counties should be altered so as to include the whole of the district within one county, this alteration can be effected by an order of the Board under section 54 of the Local Government Act, 1888. (*See* sub-section (5) of section 36 of the new Act.)

If the division of the district is not interfered with, but the effect of it would be to create a rural district having less than five elective councillors, the case comes under paragraph (iii.) of sub-section (1) of section 36, which requires that any such district shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts. This applies also to rural districts having less than five elected councillors which already exist, irrespective of county boundaries. If the county council find that there are sufficient reasons for not uniting the district to some neighbouring district or districts, as, for instance, in a case where the severed part is entirely rural in character, and there is no other rural district within a convenient distance to which it could be united, they may make an order accordingly, and if the order is confirmed it will devolve on the Board, under sub-section (5) of section 24, to nominate members of the district council in order to make the number up to five, or to take some other action under that sub-section.

If no special reasons to the contrary exist, the council must make an order uniting the district to some neighbouring district or districts. The Act does not require that the district should necessarily be united to another rural district; and its provisions would apparently be complied with if the district were united to a neighbouring urban district, although usually, no doubt, the proper course would be to unite it with a neighbouring rural district. The district might, however, be divided by order of the county council, part being added to one neighbouring district, and part to another.

In any case where a new rural district is formed by the Act, and in any other case where there is any doubt as to the name of a rural district, the county council will have to direct what shall be the name of the district.

Cases where a parish within a rural sanitary district overlaps the boundary of the county will be more complicated. In these cases arrangements must be made to prevent the overlapping of the county boundary by the parish, even if the rural district is allowed to be in more than one county. As a rule, it would seem in these cases that the parish should be divided by order of the county council, but the Act will admit of an alteration of the county boundary if that course seems expedient.

It is to be borne in mind that the Act itself does not form separate parishes of the parts of a parish situate in different administrative counties. The division under sub-section (5) of section 24 of a rural sanitary district comprising such a parish will not affect the parish in this respect, but the parish will have to be divided by order of the county council, unless the county boundary is altered so as to include the whole of the parish in one county. Where a parish is so divided,

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the order of the county council must contain directions as to the number of guardians and district councillors to be elected for each of the new parishes formed by the order.

The alteration of a rural district by or in pursuance of the Act will not affect the area of the poor law union with which at present the district is co-extensive, or in which it is comprised, but where the alteration of a poor law union seems expedient by reason of any of the provisions of the Act, the county council are empowered by sub-section (6) of section 36, to provide by their order for such alteration.

Where the alteration of the boundary of a county is deemed expedient for any the purposes mentioned in section 36, application should, as already indicated, be made to the Board for an order under section 54 of the Local Government Act, 1888. If it is proposed that the boundary of a borough should be altered for these purposes a like application should be made. (Section 35 (5)).

Where the alteration of the boundary of any parish, or the division thereof, or the union thereof, or of part thereof with another parish, seems expedient for any of the purposes of the Act, provision for such alteration, division, or union, may be made by an order of the county council under section 57 of the Act of 1888. (Section 36 (8)).

The provisions of section 59 of the Local Government Act, 1888, will apply to any order for the purposes of the present Act that may be made under section 57 of that Act, and section 69 of the new Act provides that in any case where an alteration of any area is made by the Act, an order may be made by the county council, or, in the case of an area situate in more than one county, by a joint committee of county councils, for any of the matters mentioned in section 59 of the Act of 1888. Under these powers adjustments may be made of any property, debts, and liabilities affected by the alteration, and directions may be given for effecting any subsidiary arrangements rendered necessary by the alteration.

Sub-section (12) of section 36 requires that every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any administrative county affected by that report, and before any joint committees of county councils. The sub-section further provides that it shall be the duty of the councils and joint committees to take these reports into consideration before framing any order under the powers conferred on them by the Act. The county council will not be bound to give effect to the recommendations of the Commissioners, but the reports in question will be found to be of assistance in arriving at a decision in regard to any matter dealt with therein.

## II.—PARISH COUNCILS.

Under section 3 of the Act the county council are required to fix the number of councillors to be elected for each rural parish which will have a parish council. The number is to be not less than 5 nor more than 15, and it should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election.

In any case where there is any doubt as to the name of the parish for which a parish council is elected, the name will be such as the county council, after consultation with the parish meeting, may direct. (Section 3 (9)).

The county council may be applied to by the parish council, or not less than one-tenth of the parochial electors of a parish, or before the appointed day by the vestry or a like number of the ratepayers of the parish, to divide the parish into wards for the purpose of electing parish councillors; and on being satisfied that the area or population of the parish is so large, or different parts of the population so situated, as to make a single parish meeting for the election of councillors impracticable or inconvenient, or that it is desirable for any reason that certain parts of the parish should be separately represented on the council, the county council may make an order for the purpose. The order must fix the boundaries of the wards and the number of councillors to be elected for each ward. In making the order regard must be had to the population according to the last published census for the time being, and to the evidence of any considerable change of



population since that census, and to area and to the distribution and pursuits of the population, and to all circumstances of the case. (Sections 18 and 84 (3)).

Section 1 of the Act provides for the grouping of two or more parishes under a common parish council, subject to the proviso that parishes shall not be grouped without the consent of the several parish meetings. For this purpose the section enacts that an order may be made by the county council under Part III. of the Act.

The county council may, with the consent of the parish meetings, make such an order either on their own initiative, or on the application of the parish meeting of any of the parishes proposed to be grouped. If any such application is made, it must be taken into consideration forthwith. (Section 38 (4)).

The whole of the parishes to be formed into a group, should, as a rule, be within the same county and county district, but if there are special reasons for grouping parishes in adjoining counties or county districts, the county council may depart from the rule. (Section 38 (2)).

The order must make provision for the name of the group, and as under section 1 each of the grouped parishes is to have a separate parish meeting, it must make any necessary provisions as to this also. It is further enacted that a grouping order shall provide for the election in manner provided by the Act of separate representatives of each parish on the parish council, and that it may provide for the consent of the parish meeting of a parish to any particular act of the parish council or for any other adaptations of the Act to the group of parishes, or to the parish meetings in the group. The mode of election of parish councillors is determined by sections 3 and 48. Further, the grouping order must provide for the application of the provisions contained in sections 14 and 17 of the Act with respect to the appointment of trustees and beneficiaries of charities, and the custody of documents, so as to preserve the separate rights of each parish.

The county council will be empowered to order the establishment of parish councils in rural parishes which, according to the Census of 1891, have a population of not less than 300. (Section 1). If in the case of a rural parish with less than 300 but more than 100 inhabitants, the parish meeting so resolve, the county council must, by an order under Part III. of the Act, provide for the establishment of a parish council. In this case, the county council will have no alternative but to issue the order if the necessary resolution is passed.

In regard to any rural parish with less than 100 inhabitants, the county council may issue an order establishing a parish council, if the parish meeting consent, but the parish will have no right to demand that a parish council should be established. The grant of a parish council will be in the discretion of the county council. Subject, however, to the necessity for obtaining the consent of the parish meeting the county council may act in these cases on their own initiative; but if the population of a parish is less than 200 the parish meeting may apply for a parish council under sub-section (4) of section 38, and any such application must forthwith be taken into consideration by the county council.

Where a rural parish is co-extensive with a rural sanitary district sub-section (4) of section 36 provides that until the district is united to some other district or districts, and unless the county council otherwise direct, a separate election of a parish council shall not be held for the parish, but the district council shall in addition to their own powers have the powers of and be deemed to be the parish council. In these cases, therefore, it will rest with the county council to determine whether the rule laid down in the sub-section should be departed from; and in any such case it will be competent to the county council to make an order directing that a parish council shall be elected for the parish. There is no special reason, however, why these cases should be dealt with before the first elections under the Act.

### III.—GUARDIANS AND DISTRICT COUNCILLORS.

Under section 60 of the Act, the county council will have power to fix or alter the number of guardians or rural district councillors to be elected for each parish within their county, and it is provided that for those purposes the council may

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exercise powers of adding parishes to each other and dividing parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Board.

The power to add parishes to each other for the purpose of the election of guardians is conferred on the Board by section 6 of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122). That section provides that the Board may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union for the purpose of the election of guardians. The county council will thus be able to add any such parish, if it is an urban parish, to any other urban parish in the union, for the purpose of the election of guardians, and to add any such parish if it is a rural parish, to any other parish in the rural district for the purpose of the election of rural district councillors; but they will not be able to add an urban parish to a rural parish or *vice versa*.

The power conferred on the Board by the Poor Law Acts to divide parishes into wards for the election of guardians is contained in section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), which enables the Board to divide any parish into wards for the election of guardians and to determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein.

Under sections 20, 24, and 60 of the new Act, the county council will regulate the retirement of guardians and rural district councillors. The first of these sections provides generally that the term of office of a guardian shall be three years, and that one-third, as nearly as may be, of every board of guardians shall go out of office on the 15th April in each year. Where, however, the county council on the application of a board of guardians consider that it would be expedient to provide for the simultaneous retirement of the whole board, they may direct that the members shall retire together on the 15th April in every third year. Where a union is in more than one county, an order for this purpose may be made by a joint committee of the councils of the counties concerned. There are some cases in which at the present time the whole of the guardians retire at the end of every third year in pursuance of an order of the Board, and in these cases the guardians are to continue so to retire, unless the county council or a joint committee of the county councils, on the application of the board of guardians, or of any district council or of a district wholly or partially within the union, otherwise direct.

Section 24 makes the provisions of the Act with respect to the term of office and retirement of guardians applicable to the district councillors of a rural district. In any case where such a district is in more than one union, it will be necessary to secure that the mode of retirement of the guardians of the unions shall be the same, as otherwise there may be serious difficulties in connection with the constitution of the district council.

Section 60 provides that the council of each county may for the purpose of regulating the retirement of guardians or rural district councillors, in cases where they retire by thirds, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

Where the union is situate in more than one county, the power of fixing or altering the number of guardians or rural district councillors, and of regulating the retirement of guardians and of district councillors, is to be exercised by a joint committee of the councils of the counties concerned; but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed will have power to act as the joint committee. If any order made by a joint committee under this provision is within six weeks after the making thereof objected to by any of the county councils concerned, or by any committee of any of those councils authorised in that behalf, the order will be inoperative until confirmed by the Board. (Section 59).

Where the guardians and rural district councillors are to retire by thirds, in accordance with the rule prescribed by section 20, it will be necessary, as the full number of guardians or district councillors will be elected at the first election, to provide for retirements in the years 1896 and 1897. There will be no retirements under the Act before 1896. (Section 78). The question as to the guardians and rural district councillors who will have to retire in the two years mentioned, is under sub-section (4) of section 79 to be determined by the county council with reference to the parishes, wards or other areas for which the guardians or councillors are elected.

#### IV.—HIGHWAYS.

Section 25 of the Act provides that as from the appointed day, there shall be transferred to the district council of every rural district all the powers, duties, and liabilities of any highway authority in the district, that highway boards shall cease to exist, and that rural district councils shall be the successors of the highway authorities. It is, however, enacted that the council of any county may by order postpone within their county, or any part thereof, the operation of this section, so far as it relates to highways, for a term not exceeding three years from the appointed day or such further period as may, on the application of the county council, be allowed by the Board.

The expression "highway authority" as used in the Act, means as respects a highway district, the highway board or authority having the powers of a highway board, and as respects a highway parish, the surveyor or surveyors of highways, or other officers performing similar duties. (*See* Local Government Act, 1888, section 100; Local Government Act, 1894, section 75).

The effect of section 25 will be that all these highway authorities will cease to exist on the day on which the first rural district councillors come into office, and that the rural district councils will thereupon become the highway authorities, unless the county councils postpone the operation of the section.

By section 79, persons who are members of highway boards at the passing of the Act will be continued in office until the day on which the first rural district councillors come into office, that is, as at present fixed, the second Thursday after the 8th of November next, as if the terms of office for which they were elected expired on that day, and consequently the usual annual election of waywardens will not take place.

The election of surveyors of highways under the Highway Act, 1835, will however take place, as usual, at the first meeting in vestry for each parish, not in a highway district, for the nomination of overseers in the present year.

An order under section 25 is, by section 84, to make such provision as may be necessary for holding elections of highway boards in any interval during which the operation of section 25 is postponed. This provision will enable the county council to give directions in their order for the election of waywardens in place of those who will cease to hold office, as mentioned above, when the rural district councillors come into office, and also to order for what period such waywardens shall be elected, having regard to the period of postponement.

No similar provision appears, as a rule, to be required as regards the annual election of surveyors for parishes not in highway districts during the interval referred to, and the effect of the postponement of the operation of section 25 would seem to be that in such a case surveyors will continue to be elected from year to year so long as necessary. But in the case of new rural parishes formed by or in pursuance of the Act, it may be necessary, in the event of the county council postponing the operation of section 25 to provide for the election of surveyors to act for periods until the next ordinary time for electing surveyors.

This course would not be requisite as regards a parish partly within and partly without an urban district, which, by virtue of section 216 of the Public Health Act, 1875, is at the present time treated as wholly within the urban district for highway purposes, because, if the county council postpone the operation of section 25, the part of the existing parish which is outside the urban district will continue subject

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to section 216 of the Act of 1875 until the rural district council becomes the highway authority, notwithstanding that it may have become a separate parish.

#### V.—MISCELLANEOUS.

Sub-section (7) of section 48 of the Act requires the county council to fix a scale for the expenses of elections under the Act, *i.e.*, of elections of parish and district councillors and guardians. If, at the beginning of one month before the first election, the county council have not framed any such scale for their county, the Board will have power to frame a scale for the purposes of that election. The Board will be glad to receive a copy of the scale framed by the county council under this section as soon as it has been approved by the council.

Under sections 48 and 80 the county council will have very extensive powers for the removal of any difficulties that may arise in connection with the election of parish and district councillors and guardians, and generally in bringing the Act into operation within their county. Sub-section (5) of section 48 provides that if any difficulty arises as respects the election of any individual councillor or guardian, and there is no provision for holding another election, the county council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

Under section 80, if any difficulty arises with respect to the holding of the first parish meeting of a rural parish, or to the first election of parish or district councillors, or of guardians, or to the first meeting of a parish or district council, or board of guardians, or if, from no election being held, or an election being defective or otherwise, the first parish or district council, or board of guardians, has not been properly constituted, the county council may, by order, make any appointment or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election, and properly constituting the parish or district council or board of guardians. They may, if it appears to them necessary, direct the holding of a meeting or election, and fix the necessary dates for the purpose. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it so far as may appear to the county council necessary or expedient for carrying the order into effect.

If a parish council or a district council, other than a borough council, become unable to act whether from a failure to elect or otherwise, the county council may order elections to be held and may authorise persons to act temporarily in place of the parish or district council and the chairman of the parish council. (Section 47 (5) and section 59 (5).)

Under section 17 each parish council will be empowered to appoint an unpaid treasurer, and this officer is to give such security as may be required by regulations of the county council. It is desirable that such regulations should be made before the parish councils come into office. They may provide both as to the character and as to the amount of the security to be taken from the treasurers, and the Board suggest that they should be so framed as to require such security to be given by these officers as will be sufficient to cover the amount likely to be in their hands belonging to the parish councils at any one time.

It is now necessary to refer to the provisions which will govern the procedure of the county council in regard to the issue of orders for the purposes mentioned above.

Sub-section (10) of section 36 directs that, subject to the provisions of the Act, any order made by a county council in pursuance of Part III. of the Act (as to areas and boundaries) shall be deemed to be an order under section 57 of the Local Government Act, 1888. Every such order will consequently have to be made in accordance with the provisions of that section, and of the regulations issued by the Board thereunder, and, with the exceptions mentioned in section 40 of the Act (to which attention should be specially directed), will require confirmation by the Board in the manner prescribed by section 57 of the Act of 1888.

An important amendment of the section referred to is made by section 41 of the

new Act, which provides that the time for petitioning to the Board against an order of a county council under the section shall be six weeks instead of three months after the first notice of the provisions of the order.

The Act also provides that any board of guardians affected by an order under Part III. of the Act, are to have the same right of petitioning against the order as is given by section 57 of the Act of 1888 to other authorities (section 36 (10)); and that where any of the areas referred to in section 57 of the Act of 1888 is situate in two or more counties, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the county councils concerned is, subject to the terms of delegation, to be deemed to have and to have always had power to make orders under the section with respect to that area. (Section 36 (11).)

An order made under section 60 of the new Act as to the number or retirement of guardians or rural district councillors will, as already mentioned, require confirmation by the Board if, in the case of a union situate in more than one county, the order is objected to by any of the county councils concerned or by a committee of any of those councils authorised in that behalf.

Among the orders that will not be subject to the provisions of section 57 of the Act of 1888, and will not require to be submitted to the Board, are orders of the county council fixing the number of parish councillors for a parish or dividing a parish into wards for the election of parish councillors.

An order made by the county council under section 25, postponing within their county or some part thereof the operation of that section as regards highways, will not require the confirmation of the Board, although, if it is proposed to postpone the operation of the section for more than three years from the appointed day, the postponement will require allowance by the Board.

In connection with the orders of the county council under this Act, it may be pointed out that by section 42 it is provided that in any case where an order under section 57 of the Act of 1888 (including any order made or deemed to have been made thereunder for the purposes of this Act) has been confirmed by the Board, such order is at the expiration of six months from the date of confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof can be entertained.

A copy of every order made by a county council or joint committee in pursuance of the Act is to be sent to the Board, and, if it alters any local area or name, a copy must be sent also to the Board of Agriculture. (Section 71.)

Sub-section (2) of section 80 requires that the Board shall issue regulations for expediting and simplifying the procedure under section 57 of the Act of 1888 in all cases in the year 1894, for the purpose of bringing the Act into immediate operation.

The Board have issued an order for this purpose, which, as regards the cases referred to, will take the place of the regulations made by them on the 14th September, 1889, except where notice of a local inquiry has been given before the date of the order.

It will be found that the new regulations materially expedite and simplify the procedure under section 57 of the Act of 1888, and the Board may draw special attention to the provisions in Article VIII. (3). In cases in which an order made under the section does not require confirmation by the Board, it has hitherto been necessary that the order, after having been made, should be again approved by the county council after certain notices have been given and a specified interval has elapsed. The effect of the provision in Article VIII. (3) will be that no final approval on the part of the county council will be requisite, if the requirements of Articles IV. and VIII. have been complied with.

It will also be observed that under Article IX the expression "county council," as used in the order, will include a committee of the county council, to whom they have delegated their powers under the Act of 1894, and also a joint committee appointed by any county councils for the purpose of dealing with any cases in which they are jointly interested.

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The Board enclose six copies of the order, and they have caused it to be placed on sale. If, therefore, further copies are required, they can be purchased from Messrs. Eyre and Spottiswoode, East Harding Street, London, E.C., either directly or through any bookseller. Copies of this circular can also be purchased in the same way.

It has sometimes been pointed out by county councils that no provision was made by the Local Government Act, 1888, as to the expenses of inquiries held by them under the Act. It is now provided by sub-section (4) of section 72 of the new Act, that where a county council hold a local inquiry under the Act or under the Act of 1888 on the application of a parish council or district council, or of any inhabitants of a parish or district, the expenses incurred by the county council in relation to the inquiry (including the expenses of any committee or person authorised by the county council) are to be paid by the council of that parish or district, or, in the case of a parish which has not a parish council, by the parish meeting. Subject to this, however, the expenses of the county council incurred in the case of inquiries under the Act must be paid out of the county fund.

Section 44 contains provisions as to the register of the parochial electors which is to be formed alike for urban and for rural parishes for the purposes of elections under the Act. The Board do not consider it necessary to refer to these provisions in detail; but the attention of the county council should be directed to the proviso to sub-section (3) of section 84, under which, if the county council have under consideration any division into wards or alteration of the boundaries of any parish, or union, or district which is to affect the first election, they may direct that the lists of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish, union, or district, or for the same when divided or altered.

In making any such division or alteration at any time in the month of July or August next, the county council may direct their clerk to make such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward, union, or district in which his qualification is situate, and it will, of course, be the duty of the clerk to give effect to any such direction. (Section 84.)

The orders of the county councils altering areas may direct that for the purpose of preparing the lists and registers of electors for the first elections of parish and district councillors, the orders shall take effect at such time as to enable the overseers to make out the lists for the altered areas, although the areas will not be actually altered until the appointed day.

Numerous powers and duties besides those which have been indicated above are conferred on county councils by the Act, but the Board do not think it necessary to specify them on this occasion, as their present purpose is to bring under the notice of the county council those powers and duties which may have to be exercised for the purpose of bringing the Act into operation, and they believe that they have now mentioned all that need be referred to with this object.

It is evident that in order that effect may be given to the intentions of the legislature, it is requisite that the county councils should without delay set about the exercise of the important powers which have been entrusted to them. As the Board have already pointed out, section 83 makes it the duty of every county council to exercise all such of their powers as may be required for bringing the Act into full operation within their county as soon as may be after its passing, and enables them to delegate their powers under the Act to a committee, and the Board feel assured that they may rely on every effort being used by the County Council to bring the Act into full operation in their county at the earliest possible date.

The Board strongly recommend them forthwith to appoint a committee for carrying out the Act, if they have not already done so, and to delegate to such committee their powers under it.

They also recommend that either such committee or the Council should at once place themselves in communication with the councils of the other counties in which parishes or rural sanitary districts partly within and partly without the

county are situate, with a view to the immediate appointment of any joint committees necessary to enable such cases to be dealt with.

The Board would further suggest that the clerks to rural and urban sanitary authorities should, as soon as possible, be applied to for information as to whether the districts of those authorities come within the cases mentioned in section 36 of the Act, or contain parishes or parts of parishes which are within those cases. In the meantime, the Parliamentary returns relating to counties and poor law parishes of which copies are enclosed will give the most recent information that has been published as to the cases where parishes and rural sanitary districts are in more than one county. The return relating to poor law parishes also shows the number of parishes partly in rural sanitary districts. The names of parishes partly in urban sanitary districts may be obtained from the tables numbered 4 in the second volume of the Report on the Census of 1891, but there have been alterations since the date of the census and these tables may not now be quite accurate.

As regards the matters referred to under the head of parish councils, the Board have already pointed out that the number of councillors should be fixed sufficiently early for proper arrangements to be made for the candidature of persons desirous of offering themselves for election at the first election. With this exception, it would seem that unless application is made by the vestry, or one-tenth of the ratepayers of a parish, to divide the parish into wards, it will not devolve on the county council to make any orders with respect to these matters before the appointed day. By section 36 the council are required to take into consideration the cases of small rural parishes, but no order for the grouping of such parishes, or the establishment of parish councils therein, could actually be made without the consent of the parish meeting given after the appointed day.

As regards section 25 of the Act, it will of course be necessary that any order postponing the transfer of the powers of highway authorities should be made before the appointed day.

Some inquiries have been addressed to the Board with respect to the meaning of the word "parish" as used in the Act. They may state, therefore, that it bears the meaning given to it by section 5 of the Interpretation Act, 1889 (52 & 53 Vict. c. 63), which provides that unless the contrary intention appears, the expression shall mean a place for which a separate poor rate is, or can be made, or for which a separate overseer is or can be appointed.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk of the County Council.

Circular.

Local Government Board,  
Whitehall, S.W.,

2nd April, 1894.

Local Government Act, 1894.

SIR,

I am directed by the Local Government Board to state that several inquiries have been addressed to them as to whether, in view of the provisions of the Local Government Act, 1894, it is intended that an Order in Council should be issued to amend, for the purposes of the approaching registration of electors, the instructions, precepts, notices, and forms prescribed by the Registration Order, 1889. The Board direct me to state that it is not proposed at present to issue an Order in Council on the subject; but they think it very desirable that the attention

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of the overseers should be specially drawn to the duties imposed upon them by the Act, in connection with the enfranchisement of married women for the purposes of the Act and the preparation of the lists of electors, and they suggest that this might conveniently be done by a note attached to your precept and issued with it.

The provisions to which the attention of the overseers should be drawn are those contained in section 43 and sub-sections (3) and (9) of section 44 of the Act.

Section 43 enacts that, for the purposes of the Act, a woman shall not be disqualified by marriage for being on any local government register of electors, or for being an elector of any local authority, provided that a husband and wife shall not both be qualified in respect of the same property.

Sub-section (3) of section 44 requires that the lists of electors in any parish shall be framed in parts for wards of urban districts and parishes in such manner that they may be conveniently used as lists for polling at elections for any such wards; and sub-section (9) of this section provides that any person may claim for the purpose of having his name entered in the parochial electors list, and that the law relating to claims to be entered in lists of voters shall apply.

The Board direct me to add that in the preparation of the lists of electors regard should be had to the provision in section 1 (3) of the Act, under which parishes situate partly within and partly without a rural sanitary district will be divided into separate parishes, and the attention of the Overseers might with advantage be called to this point also.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

To the Clerk of the County Council,  
Town Clerk, or Returning Officer.

Circular.

Boards of Guardians.

Local Government Board,  
Whitehall, S.W..

3rd April, 1894.

### Local Government Act, 1894.

SIR,

I am directed by the Local Government Board to state that inquiries have been addressed to them as to the effect of the Local Government Act, 1894, as regards the term of office of the present chairmen and vice-chairmen of Boards of Guardians, and the continuance in office of committees appointed by the Guardians.

The Board direct me to point out that section 79 (8) of the Act, which continues in office, until the day on which the first guardians and rural district councillors elected under the Act come into office, the persons who were members of Boards of Guardians and of Rural Sanitary Authorities at the date of the passing of the Act, does not refer to the chairmen or vice-chairmen or members of committees, as such.

In those cases where the orders in force require that the election of chairmen and vice-chairmen should take place at the first meeting of the guardians after the 15th April, the period of office of the chairmen or vice-chairmen will not be affected, and they must therefore be elected at the usual time this year.

As regards an Assessment Committee appointed under the Union Assessment Committee Acts, it appears to the Board that the Committee must be regarded as having been appointed for one year only, and consequently that they must be re-appointed in the present year at the usual time.

In the case of a School Attendance Committee, section 7 of the Elementary Education Act, 1876, expressly provides that the appointment of the Committee



shall be made annually, and the Board consider that this Committee should be appointed by the Guardians at their first meeting after the date on which the election of Guardians would have taken place if an election had been held this year at the usual time (see Rule 6 of the Second Schedule to the Act of 1876).

The Visiting Committee, however, will, in the opinion of the Board, continue in office until after the election of the new Board of Guardians in November next, unless the Committee were definitely appointed for a limited period only.

A Relief Committee will, subject to the terms of the Order authorising the appointment of the Committee, continue in office until November next without re-appointment, unless the Committee were appointed for a limited time.

A Committee appointed to consider and report on any special subject will continue in office after the date on which the Guardians would but for the Local Government Act, 1894, have gone out of office, if the business for which the Committee were appointed is not completed by that date.

A Sanitary Committee appointed under section 201 of the Public Health Act, 1875, can only continue until the end of the ordinary year of office of the Guardians, and the Committee must accordingly be re-appointed after that time in the present year, if it is desired that they should still exist.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk to the Guardians.

Circular.

County Councils.

Local Government Board,

Whitchall, S.W.,

30th April, 1894.

### Local Government Act, 1894.

SIR,

I am directed by the Local Government Board to advert to their Circular Letter of the 24th ultimo, with reference to certain provisions of the Local Government Act, 1894, under which powers and duties will devolve on the County Council for the purpose of bringing the Act into operation within the county.

The Board have now issued an Order prescribing regulations for expediting and simplifying the procedure under section 57 of the Local Government Act, 1888, in cases occurring during the present year in which the town councils of county boroughs, or joint committees of such councils and the councils of administrative counties, may have to take action for the purpose of bringing the Act into immediate operation.

Six copies of the Order are enclosed, and if additional copies are required, they can be purchased from Messrs. Eyre and Spottiswoode, East Harding Street, London, E.C., either directly or through any bookseller.

I am, at the same time, to forward to the County Council, for their information, a copy of a Circular Letter which the Board have addressed to the town councils of county boroughs, on the subject of the provisions above referred to, which affect such councils, and I am to call attention to the remarks on page 5 as to the appointment in certain cases of joint committees under section 81 of the Act of 1888. The Board also desire me to draw attention to the last paragraph of the Circular, as to the powers of joint committees appointed in pursuance of the Act of this year.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Clerk of the County Council.

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Town Councils of County Boroughs.

Local Government Board,  
Whitehall, S.W.,  
30th April, 1894.

### Local Government Act, 1894.

SIR,

I am directed by the Local Government Board to draw the attention of the Town Council to certain provisions of the Local Government Act, 1894, under which powers and duties will devolve on the Council for the purpose of bringing the Act into operation within the borough.

These provisions have reference to the alteration of areas and boundaries, and the election of guardians. Important powers in relation to these matters are conferred by the Act on county councils, and under section 75 (2) the expression "county council," when used in the Act, includes, unless the context otherwise requires, the council of a county borough.

Under section 83 it is the duty of the town council of every county borough to exercise all such of their powers as may be requisite for bringing the Act into full operation within the borough as soon as may be after its passing.

Section 84 provides that the first elections of guardians under the Act shall be held on the 8th November next, or such later date or dates in the present year as the Board may fix, and the persons elected are to come into office on the second Thursday next after their election, or such other day not more than seven days earlier or later as may be fixed by or in pursuance of rules made by the Board under the Act in relation to their election. It is important that alterations which may affect the preparation of the lists of voters should be made sufficiently early to enable the lists to be properly prepared, and it is consequently provided by sub-section (3) of section 84 that every division into wards or alteration of the boundaries of any parish or union or district which is to affect the first election shall, if parishes or parts for which the registers of parochial electors will be made are affected, be made, so far as practicable, before the 1st of July next.

By "parochial electors" are meant, with reference to a parish in a county borough, the persons who would be the parochial electors of the parish if it were a rural parish, namely, the persons registered in such portion either of the local government register of electors or of the parliamentary register of electors as relates to the parish. (Sections 2 (1) and 75.)

Many of the provisions of the Act referred to in this circular are to take effect from the "appointed day." Subject as mentioned in the Act, this day, for the purpose of elections, is defined as the day or respective days fixed for the first elections under the Act, or such prior day as may be necessary for the purpose of giving notices or doing other acts preliminary to such elections, and, for the purpose of the powers, duties, and liabilities of councils or other bodies elected under the Act, or other matters not specifically mentioned, it will be the day on which the members first elected come into office. (Section 84.)

#### I.—AREAS AND BOUNDARIES.

The provisions which should first receive the attention of the Town Council are those contained in Part III. of the Act, which relate to areas and boundaries.

Sub-section (1) of section 36 provides (amongst other things) as follows:—

For the purpose of carrying this Act into effect in the case of—

- (a) every parish \* \* \* which at the passing of this Act is situate partly within and partly without an administrative county; and
- (b) every parish which at the passing of this Act is situate partly within and partly without a sanitary district;

every county council shall forthwith take into consideration every such case within their county; and whether any proposal has or has not been made as mentioned in

section 57 of the Local Government Act, 1888, shall, as soon as practicable, in accordance with that section, cause inquiries to be made and notices given, and make such orders, if any, as they deem most suitable for carrying into effect the present Act in accordance with the following provisions, namely:—

(i.) The whole of each parish shall be within the same administrative county; and

(ii.) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district.

The expression "county district" does not include a county borough; but, with that exception, includes every urban and rural district, whether a borough or not, *i.e.*, every urban and rural sanitary district within the meaning of the Public Health Act, 1875, other than a county borough. (Section 21.)

By sub-section (11) of section 36 it is provided that, where at the passing of the Act a parish is situate in more than one county, a joint committee of the councils of the several counties comprising the parish shall act under the section. The expression "county" includes a county borough. (Section 75.) The expression "administrative county" only includes a county borough where this is expressly stated (section 100 of the Local Government Act, 1888, and section 75 of the Local Government Act, 1894); but a parish partly within and partly without a county borough would, the Board believe, be in every case a parish partly within and partly without an administrative county, as defined by the Act of 1888. It would in any case be a parish partly within and partly without a sanitary district. Consequently it will be necessary that joint committees of the councils of the county and county borough should be appointed to act under section 36, with respect to every parish which is now partly within and partly without a county borough.

The appointment by the council of each county or county borough of representatives on any joint committee for the purposes of section 36 is to be made within two months after request from any other of the councils interested. If any of the councils fail to appoint members of the committee within that period, the members actually appointed are to act. Any question relating to the constitution or procedure of the joint committee as to which the councils concerned are unable to agree is to be determined by the Board.

If a parish is partly within a county borough and partly within a rural sanitary district, and no action is taken under section 36 prior to the appointed day, the parish will as from that date be divided by the Act, the part within the rural district and the part without being constituted separate parishes by sub-section (3) of section 1.

Sub-section (2) of section 36 provides that where a parish is at the passing of the Act situate in more than one urban district, the parts of the parish in each such district shall, as from the appointed day, unless the county council for special reasons otherwise direct, and subject to any alteration of area made by or in pursuance of this or any other Act, be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same.

As regards the manner in which these cases might be dealt with by the joint committee, it is to be borne in mind that section 36 expressly directs that the orders shall be so made that the whole of each parish shall be within the same administrative county. An order could not therefore be made directing that a parish, now partly within a county borough and partly within an administrative county, should so remain. The parts of the parish might be added to other parishes by orders under the section, instead of being allowed to become separate parishes in pursuance of the Act.

In any case, such as those mentioned above, the boundary of any borough in which the parish is partly situated could, on the necessary application, be altered by an order of the Board under section 54 of the Local Government Act, 1888.

Where a parish is divided by the Act into two or more new parishes, sub-section (9) of section 36 directs that these parishes shall, until it is otherwise provided, be included in the same poor law union in which the original parish was

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included, and sub-section (2) of section 79 directs that, subject to any order made by the county council, there shall be one guardian, and in the case of a new parish in a rural district, one district councillor for each of the new parishes. Many of the parishes which will be divided by the Act are at present entitled to more than two guardians, and in such cases, if a county borough is concerned, it is desirable that a joint committee of the county and town councils should be appointed to settle the future representation of the new parishes.

The town councils of county boroughs will have power to give names to any new parishes formed by the Act within such boroughs, although no order for any alteration of area has been made. (Section 55 (2).)

It is provided by sub-section (11) of section 79 that the overseers of any parish divided by the Act shall, until the first appointment of overseers next, after the appointed day, continue in office as if they were overseers of each part of the parish, which by reason of such division becomes a separate parish.

It is to be observed that when parishes are divided, and new parishes are constituted by the Act, whether under section 1 (3) or section 36 (2), they are to be separate parishes in like manner as if they had been constituted separate parishes under the Divided Parishes and Poor Law Amendment Act, 1876, and the Acts amending the same. The formation of parishes under the Acts referred to has no effect as regards the constitution of school districts, without the sanction of the Education Department.

Where the alteration of the boundary of any parish, or the division thereof, or the union thereof, or of part thereof with another parish, seems expedient for any of the purposes of the Act, provision for such alteration, division, or union, may be made by an order of the county council or of a joint committee of county councils, under section 57 of the Act of 1888. (Section 36 (8) and (11).)

The provisions of section 59 of the Local Government Act, 1888, will apply to any order for the purposes of the present Act that may be made under section 57 of that Act, and section 69 of the new Act provides that in any case where an alteration of any area is made by the Act, an order may be made, in the case of an area situate in more than one county, by a joint committee of county councils, for any of the matters mentioned in section 59 of the Act of 1888. Under these powers adjustments may be made of any property, debts, and liabilities affected by the alteration, and directions may be given for effecting any subsidiary arrangements rendered necessary by the alteration.

Sub-section (12) of section 36 requires that every report made by the Boundary Commissioners under the Local Government Boundaries Act, 1887, shall be laid before the council of any borough affected by that report, and before any joint committee of the councils of counties or county boroughs. The sub-section further provides that it shall be the duty of the councils and joint committees to take these reports into consideration before framing any order under the powers conferred on them by the Act. The town council or joint committee will not be bound to give effect to the recommendations of the Commissioners, but the reports in question will be found to be of assistance in arriving at a decision in regard to any matter dealt with therein.

## II.—GUARDIANS.

The Act makes important alterations in the qualification, mode of election, and retirement of guardians; and the Board desire to refer the Town Council generally to the provisions of section 20 on these matters. It may be observed that guardians will only be elected in urban parishes. In a rural parish one or more rural district councillors will be elected, who will represent the parish on the board of guardians. (Section 24 (3).)

Under sub-section (1) of section 60 of the Act, the town council of a county borough will, where a union or parish under a separate board of guardians is co-extensive with the borough, or wholly included in it, have power to fix or alter the number of guardians to be elected for any parish comprised in the union or for the separate parish, as the case may be; and it is provided that for those purposes the council may exercise powers of adding parishes to each other and dividing

parishes into wards, similar to those which by the Acts relating to the relief of the poor are, for the purpose of the election of guardians, vested in the Board.

The power to add parishes to each other for the purpose of the election of guardians is conferred on the Board by section 6 of the Poor Law Amendment Act, 1868 (31 & 32 Vict. c. 122). That section provides that the Board may add any parish in a union, the population of which does not exceed 300, and the aggregate rateable value of which does not exceed the average rateable value of the parishes in the same union, to some adjoining parish in the union for the purpose of the election of guardians. The town council will thus be able to add any such parish within the borough, to any other parish therein, for the purpose of the election of guardians.

The power conferred on the Board by the Poor Law Acts to divide parishes into wards for the election of guardians is contained in section 12 of the Divided Parishes and Poor Law Amendment Act, 1876 (39 & 40 Vict. c. 61), which enables the Board to divide any parish into wards for the election of guardians and to determine the number of guardians to be elected for each ward, due regard being had to the value of the rateable property therein.

Under sections 20 and 60 of the new Act, the Town Council will have to consider what provision should be made as to the retirement of guardians for any union or any parish under a separate board of guardians which is wholly comprised in the borough. The first of these sections provides generally that the term of office of a guardian shall be three years, and that one-third, as nearly as may be, of every board of guardians shall go out of office on the 15th April in each year. Where, however, the council on the application of a board of guardians consider that it would be expedient to provide for the simultaneous retirement of the whole board, they may, if the union or parish is wholly comprised in the borough, direct that the members shall retire together on the 15th April in every third year. Where a union or a parish under a separate board of guardians is only partly within the county borough, an order for this purpose may be made by a joint committee of the councils of the county and county borough concerned. There are some cases in which at the present time the whole of the guardians retire at the end of every third year in pursuance of an order of the Board, and in any such case, where a county borough is concerned, the guardians are to continue so to retire, unless the town council, or a joint committee of the councils of the county and county borough, on the application of the board of guardians, or of any district council of a district wholly or partially within the union, otherwise direct.

Section 24 makes the provisions of the Act with respect to the term of office and retirement of guardians applicable to the district councillors of a rural district.

Section 60 provides that the council of each county as defined by the Act may for the purpose of regulating the retirement of guardians or rural district councillors in cases where they retire by thirds, direct in which year or years of each triennial period the guardians or district councillors for each parish, ward, or other area in the union or rural district shall retire.

Where the union is situate in more than one county, the power of fixing or altering the number of guardians or rural district councillors, and in connection therewith of dividing a parish into wards, and also the power of regulating the retirement of guardians and of district councillors, is to be exercised by a joint committee of the councils of the counties concerned; but if any of those councils do not, within two months after request from any other of them, appoint members of such joint committee, the members of the committee actually appointed will have power to act as the joint committee. If any order made by a joint committee under this provision is within six weeks after the making thereof objected to by any of the county or county borough councils concerned, or by any committee of any of those councils authorised in that behalf, the order will be inoperative until confirmed by the Board. (Section 60 (3).)

Where the guardians and rural district councillors are to retire by thirds, in accordance with the rule prescribed by section 20, it will be necessary, as the full number of guardians or district councillors will be elected at the first election to

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provide for retirements in the years 1896 and 1897. There will be no retirements under the Act before 1896. (Section 79). The question as to the guardians and rural district councillors who will have to retire in the two years mentioned, is, under sub-section (4) of section 79, to be determined by the council of the county or county borough with reference to the parishes, wards, or other areas for which the guardians or councillors are elected. It will be necessary in the case of a union or a parish under a separate board of guardians partly within and partly without a county borough, that a joint committee of the county and county borough councils should, as above mentioned, be appointed for this purpose.

### III.—MISCELLANEOUS.

Sub-section (7) of section 48 of the Act requires the council of every county borough to fix a scale for the expenses of election of guardians for the borough. If, at the beginning of one month before the first election, the council have not framed any such scale, the Board will have power to frame a scale for the purposes of that election. The Board will be glad to receive a copy of the scale framed by the council under this section as soon as it has been approved by the council. In any case where a union or parish under a separate board of guardians is partly but not wholly comprised in a county borough, it appears to the Board that it will be necessary that a joint committee of the county and county borough councils concerned should be appointed under section 81 of the Local Government Act, 1888, for the purpose of framing a scale of expenses for the election of guardians, and the Board would wish to be furnished with a copy of the scale framed by any such committee.

Under sections 48 and 80 the Town Council will have very extensive powers for the removal of any difficulties that may arise in connection with the election of guardians, and generally in bringing the Act into operation. Sub-section (5) of section 48 provides that if any difficulty arises as respects the election of any individual guardian, and there is no provision for holding another election, the council may order a new election to be held and give such directions as may be necessary for the purpose of holding the election.

Under section 80, if any difficulty arises with respect to the holding of the first election of guardians, or to the first meeting of a board of guardians, or if, from no election being held, or an election being defective or otherwise, the first board of guardians has not been properly constituted, the council may, by order, make any appointment, or do any thing which appears to them necessary or expedient for the proper holding of any such first meeting or election and properly constituting the board of guardians, and may, if it appears to them necessary, direct the holding of an election, and fix the necessary dates for the purpose. Any such order may modify the provisions of the Act, and the enactments applied by, or rules framed under it, so far as may appear to the council necessary or expedient for carrying the order into effect. Where the union or parish under a separate board of guardians is partly in a county borough and partly in an administrative county, and any difficulty such as is mentioned in section 80 arises, a joint committee should be appointed to deal with the matter by the councils of the county and county borough under section 81 of the Act of 1888.

It is now necessary to refer to the provisions which will govern the procedure of the Town Council in regard to the issue of orders for the purposes mentioned above.

Sub-section (10) of section 36 in effect directs that, subject to the provisions of the Act, any order made by the town council of a county borough, or by a joint committee, in pursuance of Part III of the Act (as to areas and boundaries) shall be deemed to be an order under section 57 of the Local Government Act, 1888. Every such order will consequently have to be made in accordance with the provisions of that section, and of the regulations issued by the Board thereunder, and with the exceptions mentioned in section 40 of the new Act will require confirmation by the Board in the manner prescribed by section 57 of the Act of 1888.

An important amendment of the section last mentioned is made by section 41

of the new Act, which provides that the time for petitioning the Board against an order under the section shall be six weeks, instead of three months, after the first notice of the provisions of the order.

The Act also provides that any board of guardians affected by an order under Part III. of the Act are to have the same right of petitioning against the order as is given by section 57 of the Act of 1888 to other authorities (section 36 (10)) ; and that where any of the areas referred to in section 57 of the Act of 1888 is situate in two or more counties, as defined by the Act of 1894, or the alteration of any such area would alter the boundaries of a poor law union situate in two or more counties, a joint committee appointed by the councils of those counties is, subject to the terms of delegation, to be deemed to have and to have always had power to make orders under the section with respect to that area. (Section 36 (11).)

In connection with the orders of the Town Council under this Act, it may be pointed out that by section 42 it is provided that in any case where an order under section 57 of the Act of 1888 (including any order made or deemed to have been made thereunder for the purposes of this Act) has been confirmed by the Board, such order is at the expiration of six months from the date of confirmation to be presumed to have been duly made, and to be within the powers of that section, and no objection to the legality thereof can be entertained.

A copy of every order made by the council of a county borough or joint committee in pursuance of the Act is to be sent to the Board, and, if it alters any local area or name, a copy must be sent also to the Board of Agriculture. (Section 71.)

Sub-section (2) of section 80 requires that the Board shall issue regulations for expediting and simplifying the procedure under 57 of the Act of 1888 in all cases in the year 1894, for the purpose of bringing the Act into immediate operation.

The Board have issued an order for this purpose, which, as regards the cases referred to, will take the place of any regulations previously made by them as to the procedure under section 57 of the Act of 1888, which are in force in any county borough, except where notice of a local inquiry has been given before the date of the order.

It will be observed that under Article viii. the expression "council" as used in the order, will include a committee of the town council of any county borough to whom the council have delegated their powers under the Act of 1894, and also a joint committee appointed by any such councils, or by any such council or councils, and the county council or councils of any administrative county or counties, for the purpose of dealing with any case or cases in which such councils are jointly interested.

The Board enclose six copies of the order, and they have caused it to be placed on sale. If, therefore, further copies are required, they can be purchased from Messrs. Eyre and Spottiswoode, East Harding Street, London, E.C., either directly or through any bookseller. Copies of this circular can also be purchased in the same way.

Section 44 contains provisions as to the register of the parochial electors which is to be formed as well for urban as for rural parishes, for the purposes of elections under the Act. The Board do not consider it necessary to refer to these provisions in detail ; but the attention of the Town Council should be directed to the proviso to sub-section (3) of section 84, under which, if the council or a joint committee have under consideration any division into wards or alteration of the boundaries of any parish, or union, which is to affect the first election, they may direct that the list of voters shall be framed in parts corresponding with such division or alteration so that the parts may serve either for the unaltered parish or union, or for the same when divided or altered.

In making any such division or alteration at any time in the month of July or August next, the council or a joint committee may direct such adjustment of the registers of parochial electors as the division or alteration may render necessary for enabling every parochial elector to vote at the first election in the ward or union in which his qualification is situate, and it will be the duty of the town clerk to give effect to any such direction. (Section 84.)

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Some inquiries have been addressed to the Board with respect to the powers of joint committees appointed in pursuance of the Act, and the Board may state that they are advised that the provisions of section 81 of the Local Government Act, 1888, apply to joint committees formed for any of the purposes mentioned in sub-section (11) of section 36 of the present Act, and also to joint committees formed for the purposes of section 60 of that Act. The Board, consider, therefore, that subject to an appeal to them in cases coming under section 36 (11) if the councils do not agree, the powers of the joint committee could be restricted by the councils appointing them by the terms of delegation, and, if those councils thought fit, those terms might be such as to make the proceedings of the committee subject to confirmation by the councils. The Board may add, however, that in their opinion it is very desirable that, as a general rule, the terms of delegation should be such as not to render any confirmation necessary. The same remarks apply to cases where, for any purpose connected with the Act of 1894 in respect of which two or more county councils (as defined by that Act) are jointly interested, a joint committee of those councils is appointed, although the Act contains no express provision for such an appointment.

I am, Sir,

Your obedient Servant,

HUGH OWEN,

Secretary.

The Town Clerk.

31,100

LOCAL GOVERNMENT ACT, 1888,  
and

LOCAL GOVERNMENT ACT, 1894.

(27th April, 1894.)

COUNTY BOROUGH.

Regulations as to Inquiries and Notices during 1894.



**To the Town Councils** of the several  
COUNTY BOROUGHS in ENGLAND and WALES ;—

To the County Councils for the several Administrative  
Counties in England and Wales ;—

And to all others whom it may concern.

WHEREAS by sub-sections (1), (2), and (3) of Section 57 of the Local Government Act, 1888, it is enacted as follows :—

“(1.) Whenever a county council is satisfied that a *prima facie* case is made  
“out as respects any county district not a borough, or as respects any parish,  
“for a proposal for all or any of the following things ; that is to say,—

“(a) the alteration or definition of the boundary thereof ;

“(b) the division thereof or the union thereof with any other such district

“or districts, parish or parishes, or the transfer of part of a parish to

“another parish ;



“(c) the conversion of any such district or part thereof, if it is a rural district  
 “into an urban district, and if it is an urban district, into a rural district,  
 “or the transfer of the whole or any part of any such district from one  
 “district to another, and the formation of new urban or rural districts ;  
 “(d) the division of an urban district into wards ; and  
 “(e) the alteration of the number of wards, or of the boundaries of any ward,  
 “or of the number of members of any district council, or of the apportion-  
 “ment of such members among the wards,  
 “the county council may cause such inquiry to be made in the locality, and  
 “such notice to be given, both in the locality, and to the Local Government  
 “Board, Education Department, or other Government department as may be  
 “prescribed, and such other inquiry and notices (if any) as they think fit, and  
 “if satisfied that such proposal is desirable, may make an order for the same  
 “accordingly.

“(2.) Notice of the provisions of the order shall be given, and copies  
 “thereof shall be supplied in the prescribed manner, and otherwise as the  
 “county council think fit, and if it relates to the division of a district into  
 “wards, or the alteration of the number of wards or of the boundaries of a  
 “ward, or of the number of the members of a district council, or of the appor-  
 “tionment of the members among the wards, shall come into operation upon  
 “being finally approved by the county council.

“(3.) In any other case the order shall be submitted to the Local Government  
 “Board ; and if within three months after such notice of the provisions of the  
 “order as the Local Government Board determine to be the first notice, the  
 “council of any district affected by the order, or any number of county electors  
 “registered in that district or in any ward of that district, not being less than  
 “one-sixth of the total number of electors in that district or ward, or if the  
 “order relates only to a parish, any number of county electors registered in  
 “that parish, not being less than one-sixth of the total number of electors in  
 “that parish, petition the Local Government Board to disallow the order, the  
 “Local Government Board shall cause to be made a local inquiry, and deter-  
 “mine whether the order is to be confirmed or not.”

And whereas in pursuance of Section 34 of the said Act, the Mayor, Aldermen,  
 and Burgesses of each County Borough, acting by the Council, have and are subject  
 to such of the powers, duties, and liabilities of a County Council under the said  
 Section 57 of the said Act, as relate to Parishes ;

And whereas by sub-section (4) of Section 87 of the said Act it is enacted that—

“Where any matter is authorised or required by this Act to be prescribed,  
 “and no other provision is made, declaring how the same is to be prescribed,  
 “the same shall be prescribed from time to time by the Local Government  
 “Board.”

And whereas in regard to the matters required by the said Section 57 to be pre-  
 scribed no provision other than that contained in the said Section 87 is made,  
 declaring how such matters are to be prescribed ;

And whereas by Part III. of the Local Government Act, 1894, power is given to  
 County Councils to make various Orders in relation to areas and boundaries and  
 other matters as therein mentioned :

And whereas by sub-sections (10) and (11) of Section 36 of the said Act, which  
 is included in Part III. thereof, it is enacted that—

“(10.) Subject to the provisions of this Act, any order made by a county  
 “council in pursuance of this Part of this Act shall be deemed to be an order  
 “under section fifty-seven of the Local Government Act, 1888, and any board  
 “of guardians affected by an order shall have the same right of petitioning  
 “against that order as is given by that section to any other authority.

“(11.) Where any of the areas referred to in section fifty-seven of the Local  
 “Government Act, 1888, is situate in two or more counties, or the alteration  
 “of any such area would alter the boundaries of a poor law union situate in  
 “two or more counties, a joint committee appointed by the councils of those

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“counties shall, subject to the terms of delegation, be deemed to have and to  
“have always had power to make orders under that section with respect to  
“that area; and where at the passing of this Act a rural sanitary district or  
“parish is situate in more than one county, a joint committee of the councils  
“of those counties shall act under this section.”

And whereas by Section 41 of the said Act it is enacted that—

“The time for petitioning against an order under section fifty-seven of the  
“Local Government Act, 1888, shall be six weeks instead of three months  
“after the notice referred to in sub-section three of that section.”

And whereas by sub-section (2) of Section 80 of the said Act it is enacted that—

“The Local Government Board shall make regulations for expediting and  
“simplifying the procedure under section fifty-seven of the Local Government  
“Act, 1888, in all cases in the year One thousand eight hundred and ninety-  
“four, for the purpose of bringing this Act into immediate operation, and such  
“regulations may dispense with the final approval of an order by the county  
“council in cases where the prescribed notice of the proposed order has been  
“given before it is made by the county council.”

And whereas by Section 75 of the said Act it is enacted that, in that Act, unless the context otherwise requires, the expression “County” includes a County Borough, and the expression “County Council” includes the Council of a County Borough, and the expression “prescribed” means prescribed by Order of the Local Government Board:

And whereas by Section 83 of the said Act it is enacted that a County Council may delegate their powers under the Act to a Committee:

NOW THEREFORE, We, the Local Government Board, in pursuance of the powers given to Us in that behalf, by this our Order make the Regulations following as regards any County Borough and the Council of any County Borough, for expediting and simplifying the procedure under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the said Local Government Act, 1894, into immediate operation, and do Prescribe and Determine as follows as regards any County Borough and the Council of any County Borough; that is to say,—

ARTICLE I.—This Order shall, unless We shall otherwise direct, regulate the procedure of the Council of every County Borough under Section 57 of the Local Government Act, 1888, in all cases in the year One thousand eight hundred and ninety-four, for the purpose of bringing the Local Government Act, 1894, into immediate operation, except cases in which Notice of a local Inquiry has been given before the date of this Order; and any Order previously issued by Us regulating the procedure under the said Section, and in force in any County Borough, shall not apply in any case to which this Order applies.

ARTICLE II.—(1.) A local Inquiry, at which all persons interested may attend and be heard, shall, prior to any Order being made by the Council of a County Borough under Section 57 of the Local Government Act, 1888, be held in regard to the proposal, either by a Committee of the Council, or by some Person appointed by the Council to hold such Inquiry as the Council may direct.

(2.) The said Inquiry shall, unless the Council otherwise determine, be held at some convenient place in the Parish, or in one of the Parishes proposed to be dealt with, or at such other place in the Borough or neighbourhood as may, in the opinion of the Committee or Person by whom the Inquiry is to be held, be most convenient for the purpose.

(3.) At least ten days before the day when the Inquiry is to be held, public Notice of the purport of the proposal, and of the day, time, and place fixed for the Inquiry in regard to it, shall be given by the Council by advertisement in some local newspaper circulating in the locality to which the proposal relates.

ARTICLE III.—At least ten days before the day when any such local Inquiry is to be held, a printed Notice of the purport of the proposal, and of the day, time, and place for the Inquiry shall also be published in the manner herein-after pre-

scribed, and shall be sent to the several Government Departments and Local or other Authorities herein-after specified; that is to say,—

- (1.) A copy of the said Notice shall be posted as a bill or placard in such places in the Parish or Parishes interested in the proposal as are ordinarily made use of for posting public or parochial notices.
- (2.) A copy of the Notice shall be sent by the Council to the Overseers of the Poor of such Parish; to the Guardians of the Poor of the Union in which such Parish is comprised; to the School Board (if any) in whose District such Parish or any part thereof is comprised; to the Highway Authority for any part of the Parish, if any person or body of persons other than the Council are such Highway Authority; to any Burial Board, other than the Council, for such Parish or for any part thereof; and to any Urban Sanitary Authority, other than the Council, in whose District any part of such Parish is comprised.
- (3.) A copy of the Notice shall be sent by the Council to any Local Authority which, in the opinion of the Council, is specially interested in the proposal.
- (4.) A copy of every such Notice shall be sent by the Council to the Local Government Board, the Board of Agriculture, the Public Works Loan Commissioners, the Director General of the Ordnance Survey at Southampton, the Registrar General, and the Education Department.

ARTICLE IV.—(1.) Public Notice of the provisions of any Order made by a Council under Section 57 of the Local Government Act, 1888, shall be given by the Council by advertisement in some local newspaper circulating in each Parish affected by the Order; and such advertisement shall be published within ten days after the making of the Order.

(2.) The said advertisement shall contain either a copy of the Order, or a statement of the effect of the Order, and shall also contain a statement of the time and place or places during and at which copies of the Order may be inspected by any owner or ratepayer in any area affected by the Order during a period of fourteen days from the date of the publication of such advertisement, and the Order shall be open for such inspection during such period.

ARTICLE V.—A copy of any Order made by a Council as aforesaid shall, at any time before the expiration of six weeks from the publication of the advertisement in pursuance of Article IV. (1.) hereof, be supplied by the Clerk of the Council to any owner or ratepayer in any area affected by the Order upon payment by such owner or ratepayer of a sum not exceeding threepence for each hundred words of manuscript if the copy of the Order be in writing, or upon payment of a sum not exceeding threepence for a printed copy of the Order.

ARTICLE VI.—On or before the date of the publication in pursuance of Article IV. (1.) hereof the advertisement of the provisions of any Order made as aforesaid three copies of the Order shall be forwarded to the Local Government Board and to each of the other Government Departments to whom a copy of the Notice of the Inquiry relative to the proposed Order was, by Article III. (4) hereof, required to be sent; a copy of the Order shall also be sent to each of the Local or other Authorities to whom a copy of such notice was so required to be sent, and a copy shall also be posted in like manner as the Notice of the Inquiry was, in pursuance of the same Article required to be posted.

ARTICLE VII.—The advertisement in pursuance of Article IV. (1.) hereof of the provisions of any Order made by a Council under Section 57 of the Local Government Act, 1888, shall be deemed to be the “first notice” for the purposes of Sub-section (3) of that Section as amended by Section 40 of the Local Government Act, 1894.

ARTICLE VIII.—The expression “Council” in this Order shall mean the Town Council of any County Borough, and shall include a Committee to whom the Council have delegated their powers under the Local Government Act, 1894, and also a Joint Committee appointed by any such Councils, or by any such Council or Councils and the County Council or Councils of any Administrative County or Counties, for the purpose of dealing with any case or cases in which

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such Councils are jointly interested, and, where any such Joint Committee is appointed, references in this Order to the County Borough shall be deemed to refer to each of the County Boroughs or Counties interested, and references to the Clerk of the Council to any person acting as Clerk to the Joint Committee or appointed by such Committee to discharge the duties of the Clerk of a Council under this Order.

Given under the Seal of Office of the Local Government Board, this Twenty-seventh day of April, in the year One thousand eight hundred and ninety-four.

L.S.

G. SHAW LEFEVRE,  
*President.*

HUGH OWEN,  
*Secretary.*

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## *Appendix D.*

INFORMATION AND DIRECTIONS as to the mode in which Applications for the REGULATION or INCLOSURE OF COMMONS under the INCLOSURE ACTS, 1845 to 1882, are to be made to the Board of Agriculture; with explanations respecting the law relating to the REGULATIONS AND INCLOSURE OF COMMONS.

References to the  
Commons Act,  
1876.

1. Application may be made to the Board of Agriculture for a Provisional Order Sec. 2.

- (1.) For the Regulation of a Common; or
- (2.) For the Inclosure of a Common; or
- (3.) For the Regulation of a part of a Common, and the Inclosure of the remainder; but in this case the Application must be dealt with as if the respective parts were separate Commons.

**N.B.**—Inclosure in severalty, as opposed to Regulation, will not be sanctioned unless it can be proved to the satisfaction of the Board and of Parliament, that inclosure will be of benefit to the neighbourhood as well as to private interests, and to those who are legally interested in the Common. Preamble.

2. The persons making the Application must represent at least one-third in value of the interests which are proposed to be affected by the Provisional Order. Sec. 2.

In the case of a Suburban Common (see par. 7) the Urban Sanitary Authority may, with the consent of persons representing one-third in value of the interests proposed to be affected, make application for the Regulation of such common, with a view to the benefit of their town. Sec. 8.

3. A Provisional Order for the Regulation of a Common may provide, generally or otherwise, for the "adjustment of rights" in respect of such Common, and for the "improvement" of such Common, or for either of such purposes. Sec. 3.

The **adjustment of rights** in respect of a Common comprises all or any of the following things: Sec. 4.

- (1.) As respects rights of common of pasture in a Common, being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised;
- (2.) As respects rights of common, of turbary, or taking of estovers, or taking gravel, stone, or otherwise interfering with the soil of the Common, being waste land of a manor,—the determination of the persons by whom, and the mode and place or places in which, and the times at which such rights are to be exercised; also, on compensation made to any person aggrieved, either by grant of a right of equal value, or, with his consent in writing, in money,—the restriction, modification, or abolition of all or any of such rights which may permanently injure the Common;
- (3.) As respects rights of common in land which is not waste land of a manor, the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised; as also, on compensation made to any person aggrieved, either by grant of a right of equal value, or, with his consent in writing, in money,—the restriction, modification or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;
- (4.) As respects any Common, whether it is or is not waste land of a manor, the determination of the rights and obligations of the lord of the manor, severalty owners or other person or persons entitled to the soil of such

References to  
the Commons  
Act, 1876.  
—

Common ; as also, on compensation made to any person aggrieved, either by grant of a right of equal value, or, with his consent, in money,—the restriction, modification, or abolition of all or any of such rights ; and in particular, in the case of severalty owners, of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land ;

- (5.) Generally as respects any Common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the Common, which settlement may be conducive to the interests of all or any class of persons interested in the Common.

Sec. 5.

The **improvement** of a Common comprises all or any of the following things ; that is to say,

- (1.) The draining, manuring, or levelling of the Common ;
- (2.) The planting trees on parts of such Common, or in any other way improving or adding to the beauty of the Common ;
- (3.) The making or causing to be made byelaws and regulations for the prevention of or protection from nuisances, or for keeping order on the Common ;
- (4.) The general management of such Common ;
- (5.) The appointment from time to time of conservators of the Common for the purposes aforesaid.

Sec. 6.

4. A Provisional Order may be issued for the Inclosure of a Common in accordance with the provisions of the Inclosure Acts, 1845 to 1882 ; but the Commons Act, 1876, requires that special information shall be furnished to the Board as to the advantages the applicants anticipate from the Inclosure of the Common as compared with its Regulation, and also as to the reasons why an Inclosure is expedient when viewed in relation to the benefit of the neighbourhood.

Sec. 10.  
Sub-Sec. 4.

5. In any Provisional Order, such of the following terms and conditions for the benefit of the neighbourhood, as are applicable to each case, are required by the Commons Act, 1876, to be inserted ;

- (1.) That free access is to be secured to any particular points of view ;
- (2.) That particular trees or objects of historical interest are to be preserved ;
- (3.) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times and in such manner and on such parts of the Common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the Common ;
- (4.) That carriage roads, bridle paths, and footpaths over such Common are to be set out in such directions as appear most commodious ;
- (5.) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

Sec. 10.  
Sub-Sec. 1.

6. Before an application is made to the Board, the Applicants must, in every case, publish, in the form approved by the Board, an Advertisement in the Newspaper or Newspapers having the largest circulation in the neighbourhood of the Common, giving notice of their intention to apply to the Board for a Provisional Order. In ordinary cases two insertions will be sufficient, with an interval of a week between each.

Sec. 8.

7. In the case of a Suburban Common, that is to say, any Common which is situate wholly or partly in any Town or Towns, or within six miles of any Town or Towns, notice of the intended Application must be served on the Urban Sanitary Authority or Authorities. A "Town" means any Municipal Borough, or Improvement Act District, or Local Government District, having a population of not less than 5,000 inhabitants. The population is to be reckoned

according to the last published census, and the distance is to be reckoned **in a direct line** from the Town Hall, or if there shall be no Town Hall, then from the Cathedral or Church, if there be only one Church, or, if there be more Churches than one, then from the principal Market Place of such Town to the nearest point of the Suburban Common.

8. The application must be on a form supplied by the Board, and be accompanied by a Map on tracing cloth, clearly defining the land proposed to be dealt with; also by copies of the newspapers containing the advertisement of the intended Application, and, in the case of a Suburban Common, proof of service of notice on the Sanitary Authority or Authorities.

Sec. 10.

The names of the owners of the lands adjoining the Common should be marked upon the Map.

9. When forms of application are applied for, it should be stated whether they are required for "Regulation," or for "Inclosure," or partly for one and partly for the other.

10. In case of an application partly for Regulation and partly for Inclosure, both forms must be filled up and signed, and the boundaries between the respective parts must be set out on the Map.

Sec. 2.

11. On receipt of an Application, accompanied by the before-mentioned documents, the Board will take the matter into consideration, and, if satisfied that a *prima facie* case has been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further, they will order a local inquiry to be held by an Assistant Commissioner. A deposit, on account of the expenses which may be incurred, of such sum as the Board in each case may deem necessary, will be required before the local inquiry is held.

Sec. 10.  
Sub-Sec. 6.

12. The Assistant Commissioner will inspect the Common, and, after not less than 21 days' notice, published as directed by the Commons Act, 1876, will hold Public Meetings in the locality (one at least of which will be held in the evening, between the hours of 7 and 10 o'clock), for the purpose of hearing all persons desirous of being heard in relation to the subject matter of the inquiry, and of making such other inquiries and gaining such information as may enable him to report fully to the Board thereon.

Sec. 11.

13. After considering the Assistant Commissioner's report, the Board, if satisfied that the Regulation or Inclosure is expedient, will frame a draft Provisional Order, setting forth the provisions to be made for the benefit of the neighbourhood and for the protection of private interests, and will deposit a Copy of the same in the Parish for the consideration of the parties interested, and will give public notice of such deposit.

Sec. 12.

14. If the consents required by the Act, that is to say, of persons representing at least two-thirds in value of such interests in the Common as will be affected by the Provisional Order, and of the Lord of the Manor in case of land waste of any Manor or to the soil of which the Lord is entitled, are given to the draft Provisional Order as originally deposited, and to any modifications thereof, the Provisional Order will be deemed to be final, and the Board will make a report certifying that it is expedient that such Order should be confirmed by Parliament.

Sec. 12.  
Sub-Sec. 5.

15. When the freemen, burgesses, or inhabitant householders of any city, borough, or town are entitled to rights of common, or other interests in the Common, the consent of two-thirds in number of such freemen and burgesses so entitled, as may be resident in such city, borough, or town, or within 7 miles thereof, or of such inhabitant householders, must be given to the Provisional Order.

Sec. 12.  
Sub-Sec. 6.

16. If the report of the Board is referred to a Committee of either House of Parliament for consideration, and any modifications are recommended, the Board may modify the Provisional Order accordingly, and if such modifications are consented to in the same manner as the Provisional Order originally deposited, the Board will make a special report to that effect.

Sec. 12.  
Sub-Sec. 11.

Reference to the  
Commons Act,  
1876.  
Sec. 32.

17. After the Bill confirming the Provisional Order has received the Royal Assent, the Board will convene a meeting of the parties interested, for the purposes of appointing a Valuer to carry out the Regulation or Inclosure of the Common, and of resolving upon instructions to the Valuer not inconsistent with the terms of the Provisional Order. But no appointment of a Valuer will be valid until it has been confirmed by the Board.

18. The Regulation or Inclosure will then proceed as directed by the Inclosure Acts, 1845 to 1882.

19. The Inclosure Acts, 1845 to 1882, are as follows :—

Year and Chapter.	Short Title.
8 & 9 Vict. c. 118 ...	The Inclosure Act, 1845.
9 & 10 Vict. c. 70 ...	The Inclosure Act, 1846.
10 & 11 Vict. c. 111 ...	The Inclosure Act, 1847.
11 & 12 Vict. c. 99 ...	The Inclosure Act, 1848.
12 & 13 Vict. c. 83 ...	The Inclosure Act, 1849.
14 & 15 Vict. c. 53 ...	The Inclosure Commissioners Act, 1851.
15 & 16 Vict. c. 79 ...	The Inclosure Act, 1852.
17 & 18 Vict. c. 97 ...	The Inclosure Act, 1854.
20 & 21 Vict. c. 31 ...	The Inclosure Act, 1857.
22 & 23 Vict. c. 43 ...	The Inclosure Act, 1859.
31 & 32 Vict. c. 89 ...	The Inclosure, &c., Expenses Act, 1868.
39 & 40 Vict. c. 56 ...	The Commons Act, 1876.
41 & 42 Vict. c. 56 ...	The Commons (Expenses) Act, 1878.
42 & 43 Vict. c. 37 ...	The Commons Act, 1879.
45 & 46 Vict. c. 15 ...	The Commonable Rights Compensation Act, 1882.



PARISH OFFICERS.**Instructions as to the mode of Appealing to the Local Government Board against Disallowances and Surcharges by a District Auditor.**

1. Parish Officers from whom a District Auditor certifies any money to be due, unless they appeal against the Auditor's decision, are required by law to pay over the money certified within seven days from the date of the Certificate, as hereinafter mentioned :—

## RATES LEVIED BY OVERSEERS.

- (a.) Money certified in the *Poor Rate* Accounts must be paid to the *Union Treasurer*, except where an amount of less than £2 is certified to be due from Overseers, in which case the money may be paid over with the balance to the succeeding Overseers.
- (b.) Money certified in the *separate Sanitary Rate* Account must be paid to the *Treasurer of the Rural Sanitary Authority*.
- (c.) Money certified in the *Lighting Rate* Account to the *Treasurer of the Lighting Inspectors*.
- (d.) Money certified in the *separate Burial Rate* Account to the *Treasurer of the Burial Board*.
- (e.) Money certified in the *separate School Board Rate* Account to the *Treasurer of the School Board*.
- (f.) Money certified in the *Borough Rate* Account—i.e., the Account of the rate levied in a parish only partly included in a municipal borough to meet the precept of the Town Council—to the Borough Treasurer.
- (g.) Money certified in the Account relating to the *Highway Rate* levied in *South Wales*, to the Treasurer of the Highway Board.

## RATES LEVIED BY PARISH HIGHWAY OFFICERS.

- (h.) Money certified to be due from *Surveyors of Highways* must be paid over to the Surveyors in office at the date when the payment is made.
- (i.) Money certified to be due from *Collectors* appointed by the Surveyors must be paid over to the Surveyors in office at the time of payment.
- (j.) Money certified to be due from *Waywardens* of Highway Parishes within the districts of Highway Boards, or from *Collectors* appointed by such Waywardens, must be paid to the Treasurer of the Highway Board.

2. Any Parish Officers aggrieved by the Auditor's decision may appeal to the Local Government Board, who are empowered to decide as to the lawfulness of the reasons stated by the Auditor for his decision ; and where they uphold the disallowance or surcharge, they may, upon payment of the costs (if any) incurred by the Auditor in taking steps to enforce payment of the money certified, remit the disallowance or surcharge, if they consider that the subject-matter of it was incurred under such circumstances as make it fair and equitable that this course should be taken.

3. When Parish Officers desire to appeal, they must, unless the Auditor has already entered his reasons in the Book of Account in which the disallowance or surcharge was made, apply to the Auditor to enter his reasons in that book ; and for this purpose the book should be submitted to the Auditor.

4. When the Auditor has entered his reasons, an exact copy of them and also a copy of the Auditor's certificate of disallowance or surcharge, including his signature and the date of the entry, should be forwarded to the Board with the appeal.

5. The appeal should be by letter (on foolscap paper), addressed to the Secretary of the Local Government Board, Whitehall, London, and must be signed by the

appellant in his own handwriting. When two or more persons are mentioned in the Auditor's certificate, the appeal should be signed by each of those desirous of appealing.

6. The appeal should contain a full statement of the facts which the appellant may desire to lay before the Board, and the grounds upon which the appeal is made should be explicitly set out. If there are any

- (1) Bills,
- (2) Vouchers, or
- (3) other papers or documents

bearing upon the matter, they should be forwarded to the Board with the appeal.

HUGH OWEN,  
Secretary.

LOCAL GOVERNMENT BOARD,  
WHITEHALL, APRIL, 1885.

### Similar Instructions have been Issued by the Local Government Board for Members and Officers of Local Authorities.

*The following paragraph of those Instructions takes the place of paragraph 1 in the Instructions to Parish Officers:—*

7. Unless an appeal be made against the Auditor's decision, the sum certified by him to be due must be paid over as follows:—

- (a.) Money certified to be due from a member or an officer of an *Urban Sanitary Authority* must be paid within *fourteen days* to the Treasurer of the Authority.
- (b.) Money certified to be due from a member or an officer of a
  - (1) *Board of Guardians*, or
  - (2) *Board of Management* for a School or Asylum District, or
  - (3) *Rural Sanitary Authority*, or
  - (4) *School Board*, or
  - (5) *Highway Board* or a *Board for repair of the highways* in a Highway Parish, or from a
  - (6) *Manager of a School* under a School Board,
 must be paid over within *seven days* to the Treasurer of the Authority.

*The instructions will in some matters require modification after the "appointed day." They are inserted here as a general guide with respect to the mode of appealing to the Local Government Board against a decision of the District Auditor.*

## COMPENSATION TO CIVIL SERVANTS ON ABOLITION OF OFFICE.

The award of compensation allowances to established Civil Servants on the abolition of their offices is regulated by Sec. 7 of the Superannuation Act of 1859, which provides that :—

“It shall be lawful for the Commissioners of the Treasury to grant to any person  
“retiring or removed from the Public Service in consequence of the  
“abolition of his office, or for the purpose of facilitating improvements in  
“the organisation of the Department to which he belongs, by which greater  
“efficiency and economy can be effected, such special annual allowance by  
“way of compensation as, on a full consideration of the circumstances of  
“the case, may seem to the said Commissioners to be a reasonable and  
“just compensation for the loss of office; and if the compensation shall  
“exceed the amount to which such person would have been entitled under  
“the Scale of Superannuation provided by this Act, if ten years were added to  
“the number of years which he may have actually served, such allowance  
“shall be granted by special Minute, stating the special grounds for  
“granting such allowance, which Minute shall be laid before Parliament,  
“and no such allowance shall exceed two-thirds of the salary and emolu-  
“ments of the office

In calculating allowances under this section, it is the practice of the Treasury to award as many sixtieths of the officer's emoluments as he has served complete years, with a special addition, on account of abolition of office, not exceeding the following scale, viz. :—

Actual Service.	Addition.
20 years or upwards ... ..	$\frac{10}{60}$
15 „ and less than 20 ... ..	$\frac{7}{60}$
10 „ and less than 15 ... ..	$\frac{5}{60}$
5 „ and less than 10 ... ..	$\frac{2}{60}$
Under 5 „ ... ..	$\frac{1}{60}$

When the duties of the situation have not been such as to require that the holder should give his whole time to the Public Service, such deduction is made from the amount of compensation allowance for which he would otherwise be qualified as the Treasury may consider reasonable.

It must be observed that all awards under the section are at the absolute discretion of the Treasury, and are subject to modification if the circumstances of the particular case require it.

Non-established Civil Servants who have been employed for not less than seven years in an employment to which they were required to devote their whole time, receive a gratuity not exceeding one pound or one week's pay (whichever is greater) for each year of service, under section 4 of the Superannuation Act of 1877.

No gratuity can be granted to non-established Civil Servants whose duties have not required their whole time.



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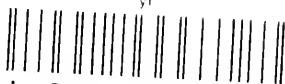
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